

Deliberative Process / Ex. 5

Andrea

Andrea Schaller
USEPA-Region 5
77 W. Jackson Blvd, WW-16J
Chicago, IL 60604

schaller.andrea@epa.gov
312-886-0746

Message

From: Nitsch, Chad [Nitsch.Chad@epa.gov]
Sent: 5/26/2017 4:22:49 PM
To: Hurd, Kathy [Hurd.Kathy@epa.gov]
CC: Christensen, Damaris [Christensen.Damaris@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]
Subject: FW: letter and powerpoint for NASDA members
Attachments: state federalism outreach invite NASDA.PDF; federalism NASDA ppt 5-31-17.pdf

FYI

Chad Nitsch
State and Regional Partnerships | Office of the Administrator
Environmental Protection Agency
202-564-4714

From: Nitsch, Chad
Sent: Friday, May 26, 2017 12:17 PM
To: 'Britt Aasmundstad' <britt@nasda.org>
Cc: Bowles, Jack <Bowles.Jack@epa.gov>; Osinski, Michael <Osinski.Michael@epa.gov>
Subject: letter and powerpoint for NASDA members

Britt,

For the May 31st meeting, here is the invite and powerpoint you can send to the NASDA members. Let me know if you have questions. Otherwise, enjoy the weekend.

Thank you,

Chad Nitsch
State and Regional Partnerships | Office of the Administrator
Environmental Protection Agency
202-564-4714

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]
From: Ferguson, Lincoln
Sent: Mon 4/17/2017 12:13:19 PM
Subject: RE: draft documents for your review
[draft WOTUS2 tribal consultation letter.docx](#)

Good morning!

I've attached a copy of the letter with a few minor edits, but keeping the formality of the letter.

Only thing I wasn't sure about is the letter says

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From: Greenwalt, Sarah
Sent: Friday, April 14, 2017 5:18 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Subject: Re: draft documents for your review

Yes let's do that. Can you forward to him now so he can work on it over the weekend? I think we both believe it should go out as quickly as possible. That way we can get it going first thing on Monday.

I may have mentioned this already, but this one will be auto-penned since the Administrator will be out.

Sent from my iPhone
On Apr 14, 2017, at 5:13 PM, Eisenberg, Mindy <Eisenberg.Mindy@epa.gov> wrote:

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Would it make sense for Lincoln to take a look on Monday and then we can move it forward?

thanks

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Greenwalt, Sarah
Sent: Friday, April 14, 2017 4:46 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Re: draft documents for your review

I'm still caught up in Ryan's office. Can we make sure that this letter mirrors the federalism letter w/r/t the Administrator's voice? Including the form stuff is fine, but I want to make sure we're starting from the one that everyone has already approved and then we're adding Tribe specific stuff on top of that.

Sent from my iPhone
On Apr 14, 2017, at 4:03 PM, Eisenberg, Mindy <Eisenberg.Mindy@epa.gov> wrote:

Hi Sarah,
I just wanted to touch base to see if you had any comments on the tribal consultation letter. If you are OK with it, we will route it for the Administrator's signature.

Thanks,

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Eisenberg, Mindy

Sent: Wednesday, April 12, 2017 6:27 PM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Fotouhi, David <fotouhi.david@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Gude, Karen <Gude.Karen@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>

Subject: draft documents for your review

As promised, attached are draft frequently asked questions and a desk statement focused on our upcoming federalism consultation. You will note in the FAQs that we have identified additional questions that we may want to prepare answers for but have not as yet. We are also working on a set of standard talking points and plan to send them to you tomorrow.

I'm also attaching the coordination and consultation letter for the Administrator's signature, along with a background section and coordination plan that is a typical attachment for all of EPA's tribal consultations. Please note that since the date of signature is uncertain, there are a few places for dates identified by yellow highlighting and this will need to be updated when a signature date is identified (signature starts the coordination period).

Once you have reviewed the letter and are ready for us to move forward, we will upload it into the correspondence system for the Administrator's signature. After signature, the letter and coordination plan will be emailed out to tribes and also mailed by program staff to a list provided by AEIO.

Thanks!

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

<draft WOTUS2 tribal consultation letter.docx>

<Draft WOTUS2 FAQs.docx>

<draft federalism desk statement (002).docx>

To: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]
From: Smith, Bernice
Sent: Mon 6/5/2017 1:21:41 PM
Subject: Following up on our OWCD RESEARCH NEEDS discussion
[4-28-17 OWOW input on OW Research Tracker.xlsx](#)

Good morning Mindy. I am following up on our May 31st discussion regarding any Division research needs updates to the OW Research tracker, particularly in light of John and your staff's Chat-aqua prep meeting with ORD last Thursday. Chat-aqua is a forum where a program office presents to ORD a research problem/science question(s) that need to be addressed over the next 2-3 years. This two hr. forum also provides the opportunity for ORD to react to identified research needs, including a discussion on current ORD work, any new science directions on the topic and ORD capabilities to provide assistance. A chat-aqua is tentatively planned for some time between June 19 and mid-July to address WOUS.

Specifically, **Deliberative Process / Ex. 5**

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During our May 31st meeting you agreed to follow up with staff on Division research/science needs. I am attaching the OW Research tracker, that Rose updated in April. The tracker shows existing/ongoing research on lines #70-72. As I mentioned previously, we do not need to identify every ongoing OWOW-ORD collaborations on the research tracker, but rather we need to focus on new and critical priority needs.

Since John offered to have a draft Chat-aqua agenda ready for ORD's within a week of the June 1st meeting, I figured this Wednesday might be a good time to check in with you regarding any updated Division research needs, including those related to WOUS. Would you have enough time to check in with staff and then share with me any updates on research needs by this Wednesday?

Bernice

Bernice L. Smith, Ph.D.
Senior Science Advisor
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., Rm. 7131
Washington, D.C. 20460
Phone: 202-566-1244

Message

From: Somerville, Eric [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E6CC976997594F4A8E89791ACCE8B87F-SOMERVILLE, ERIC]
Sent: 6/2/2017 7:17:29 PM
To: Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]
CC: McDavit, Michael W. [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4cb54848e7f641bf90e7cbbfedb28971-Michael W. McDavit]; Downing, Donna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d853e50d3a2b489daf2cc498c052e3d6-DDowning]; Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]; Able, Tony [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08873e26ccd44323b0f6ab96e0e8fada-Able, Anthony]
Subject: re-categorizing comments in Topic 17
Attachments: RtC Topic 17 recategorized comments_ES 6 2 17.xlsx

Good Afternoon Damaris-

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Personal Matters / Ex. 6

Let me know if I there is anything I can do.

-Eric

Eric Somerville
U.S. EPA Region 4 | Ocean, Wetlands & Streams Protection Branch
c/o SESD (F120-6) | 980 College Station Road | Athens, GA 30605-2720
tel 706.355.8514 | somerville.eric@epa.gov

From: Able, Tony
Sent: Thursday, June 01, 2017 8:57 AM
To: Somerville, Eric <Somerville.Eric@epa.gov>
Subject: FW: Support from Eric Somerville

Call me after you look this over. I'm supportive.

Tony Able, Chief
Wetlands and Streams Regulatory Section
U.S. Environmental Protection Agency
61 Forsyth St., S.W.
Atlanta, GA 30303

W - 404 562 9273

From: McDavit, Michael W.

Sent: Thursday, June 1, 2017 7:47 AM

To: Able, Tony <Able.Tony@epa.gov>

Cc: Downing, Donna <Downing.Donna@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

Subject: Support from Eric Somerville

Hi Tony,

Thanks for all your support at the national meeting. I thought it was a good meeting for us.

Now to the main reason I'm writing to you. I'd very much like assistance from Eric Somerville for a couple of WOTUS2-related projects. They are interrelated, and would both inform the Response to Comments effort. I'm in need of someone like Eric because

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We are very grateful for the significant effort Eric has already put into the Clean Water Rule, and appreciate your willingness to let him provide further support. Please share this with Eric and then let me know if you and he are okay with this request and the time estimates. In any case, thanks so much for considering it. Crossing my fingers.

All my best,

Michael

W. Michael McDavit, Chief
Program Development and Jurisdiction Branch
Office of Water/USEPA (MC 4502T)

1200 Penn. Ave, NW (Room 7303 West Bldg)
Washington, DC 20460
202-566-2465

"Why is the sea king of a hundred streams?
Because it lies below them."
LAO TSU

Appointment

From: Christensen, Damaris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E04107C23C1043D6967754064C477A29-CHRISTENSEN, DAMARIS]
Sent: 5/24/2017 3:14:54 AM
To: Cindy Barger [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=user3faffd36]; Jensen, Stacey M CIV USARMY HQDA (US) [Stacey.M.Jensen@usace.army.mil]; Downing, Donna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d853e50d3a2b489daf2cc498c052e3d6-DDowning]; Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]; Kupchan, Simma [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=784e0aea94a7485fa0435cc0cf5a62a5-SASHER]; Schaller, Andrea [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=50990dffaa4e4321955c0e675c4cfb30-Aschalle]; Kwok, Rose [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3d2987ba8f246a5a9e37773201fd180-Kwok, Rose]
CC: Hurl, Kathy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f3b04131f1145fcb4ccf5b0a64c1ac4-KHurl]
Subject: federalism letters and analysis
Attachments: Draft Federalism Comment Summar format.docx
Location: DCRoomWest7129/DC-CCW-OWOW
Start: 5/24/2017 2:00:00 PM
End: 5/24/2017 3:00:00 PM
Show Time As: Tentative

As I indicated, this is a meeting for us to talk through:

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I'm scheduling for an hour, not because I expect it to take that long, but to provide a buffer to walk over to our 11 o'clock.

Let me know if anyone besides Andrea will be calling in; if so I can set up a conference line. Otherwise we can call Andrea directly.

Damaris

From: Schaller, Andrea
Sent: Tuesday, May 16, 2017 12:37 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>
Subject: federalism

Hey ladies

Working on setting up a framework for reading all the federalism comments.

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Andrea

Andrea Schaller
USEPA-Region 5
77 W. Jackson Blvd, WW-16J
Chicago, IL 60604

schaller.andrea@epa.gov
312-886-0746

Message

From: Christensen, Damaris [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E04107C23C1043D6967754064C477A29-CHRISTENSEN, DAMARIS]
Sent: 5/19/2017 8:54:22 PM
To: Marusiak, Eleanor [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6363cdbfa86840c0aa2043eb2c384673-ENOLAN]; Gonder, Sharon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1ac8b248999742ca86af365ecdaef499-sgonder]
CC: Bachle, Laura [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d6b7a9c85f644809fb67deaebf1438b-LBACHLE]; Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]
Subject: IT -related contract purchases

Hi Sharon and Eleanor,

We exchanged some emails about a year ago as I was trying to determine whether EPA had any software that allowed searching within documents that were part of the record and the response to comments for the Clean water Rule. We ended up not pursuing that project because it became clear that the new Administration was unlikely to defend or implement the Clean Water Rule.

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Deliberative Process / Ex. 5 We've started by asking for the contractor to present us with database options for analyzing those comments. I've been working with Laura Bachle on this, and we know that if Horsley Witten ends up recommending we purchase or lease software we will have additional work to do to justify the work assignment.

You can see below that Laura has been diligently trying to ensure that EPA doesn't already have access to software that can help with this process. But once we establish that there is in fact a need for such software, how do we document what is needed to justify purchase?

As always, things are happening fast. Can you help us directly, or put us in touch with people that can help us?

Many thanks.

Damaris

From: Bachle, Laura
Sent: Tuesday, May 16, 2017 8:36 AM
To: Scully, Carolyn <Scully.Carolyn@epa.gov>; Grecco, Solymar <Grecco.Solymar@epa.gov>
Cc: Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Bernales, Barbara <bernales.barbara@epa.gov>; Douglas, Holly <Douglas.Holly@epa.gov>; Cottrill, Edward <Cottrill.Edward@epa.gov>; Dalton, Deborah <Dalton.Deborah@epa.gov>; Martiny, Sally <Martiny.Sally@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Meyers, Aaron <Meyers.Aaron@epa.gov>; Whiting, Michael <Whiting.Mike@epa.gov>; Fenton, Terry <fenton.terry@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>
Subject: RE: IT -related purchases

Thanks to the collective for getting us an answer. So it is safe for us to move forward in authorizing Horsely Witten to purchase something in order to do this work, because we do not already own anything that can do the job. Can someone let me know what documents I need to fill out to justify their purchase? What steps need to be taken to expedite this? The Waters of the US rule-making is on a very fast track.

Thanks all!

-Laura

From: Scully, Carolyn

Sent: Thursday, May 04, 2017 5:19 PM

To: Grecco, Solymar <Grecco.Solymar@epa.gov>

Cc: Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Bernales, Barbara <bernales.barbara@epa.gov>; Douglas, Holly <Douglas.Holly@epa.gov>; Cottrill, Edward <Cottrill.Edward@epa.gov>; Bachle, Laura <Bachle.Laura@epa.gov>; Dalton, Deborah <Dalton.Deborah@epa.gov>; Martiny, Sally <Martiny.Sally@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Meyers, Aaron <Meyers.Aaron@epa.gov>; Whiting, Michael <Whiting.Mike@epa.gov>; Fenton, Terry <fenton.terry@epa.gov>; McGuire, Cathy <McGuire.Cathy@epa.gov>

Subject: RE: IT -related purchases

Hi Soly,

Holly, from the eRulemaking PMO forwarded to the EPA Docket Center team the email chain below. We manage the Agency's dockets for rulemakings and other actions – this includes posting to Regulations.gov all of the supporting documents that accompany the Agency action and any public comments the Agency receives.

We are not aware of any systems at the Agency that do comment categorization or analysis. My understanding is that for large rulemakings or other actions, EPA Program Offices typically use a contractor to assist with this analysis that involves parsing comments in sub-comments and grouping like comments in order to prepare a response to comments. From what we've seen, a Program Office typically has a contract to assist with a number of different tasks in the development of the action, not just the comment analysis/response piece. ERG is one contractor that I know the Agency has used. They have a proprietary application that they use for comment analysis – parsing and grouping. I think there is a significant amount of human intervention to review the comments and organize them thematically – again a single comment may have many different ideas or sub-comments.

We can try to reach out to some of the EPA rule writers to understand what contractors they might have used for this purpose. Let us know if we can be of any further assistance. I will be out of the office on Friday, but I'll be back next week.

Thanks,
Carolyn

Carolyn Scully
Regulatory Support Division
Office of Environmental Information
(202) 566-1457

From: Douglas, Holly

Sent: Thursday, May 04, 2017 2:13 PM

To: Scully, Carolyn <Scully.Carolyn@epa.gov>

Cc: Kerwin, Courtney <Kerwin.Courtney@epa.gov>; Bernales, Barbara <bernales.barbara@epa.gov>

Subject: FW: IT -related purchases

Hi All,

Per our conversation, here is the email that we discussed.

Thanks so much for looking into this!

Holly

From: OEI-IMO

Sent: Thursday, May 04, 2017 1:12 PM

To: McGuire, Cathy <McGuire.Cathy@epa.gov>; Fenton, Terry <fenton.terry@epa.gov>; Whiting, Michael <Whiting.Mike@epa.gov>; Douglas, Holly <Douglas.Holly@epa.gov>; Meyers, Aaron <Meyers.Aaron@epa.gov>

Cc: Bachle, Laura <Bachle.Laura@epa.gov>; Dalton, Deborah <Dalton.Deborah@epa.gov>; Martiny, Sally <Martiny.Sally@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>

Subject: RE: IT -related purchases

Theoretically speaking, this SHOULD exist in READ – in reality sadly it does not. Does speaking to the eRule team make sense to see whether they already have a handle on this universe within EPA? Copying them just in case!

Soly

OEI IMO Team

Solymer Grecco, OEI IMO (202) 566-0950

From: McGuire, Cathy

Sent: Thursday, May 04, 2017 1:08 PM

To: Fenton, Terry <fenton.terry@epa.gov>; Martiny, Sally <Martiny.Sally@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; OEI-IMO <OEI-IMO@epa.gov>

Cc: Bachle, Laura <Bachle.Laura@epa.gov>; Dalton, Deborah <Dalton.Deborah@epa.gov>

Subject: RE: IT -related purchases

All,

I have included Soly, OEI's IMO. She may be able to assist.

Cathy

Cathy McGuire

OEI SharePoint Site Collection Administrator / OEI Liaison Privacy Official

OEI/OBOS/Information and Security Division

email: mcguire.cathy@epa.gov

(w) 919-541-4053

(cell) Personal Phone / Ex. 6

From: Fenton, Terry

Sent: Thursday, May 04, 2017 1:06 PM

To: McGuire, Cathy <McGuire.Cathy@epa.gov>; Martiny, Sally <Martiny.Sally@epa.gov>; Fagan, Susan

<Fagan.Susan@epa.gov>

Cc: Bachle, Laura <Bachle.Laura@epa.gov>; Dalton, Deborah <Dalton.Deborah@epa.gov>

Subject: ~FW: IT -related purchases

I do my best to stay away from most things IT-related, but am hoping that one of you might be able to help another TOCOR on our contract with the issue below.

Terry Fenton

Conflict Prevention and Resolution Center

U.S. Environmental Protection Agency

"Making Agreement Easier" | (202) 564- 2090

<http://intranet.epa.gov/adr> or <http://www.epa.gov/adr>

From: Bachle, Laura

Sent: Thursday, May 04, 2017 11:28 AM

To: Dalton, Deborah <Dalton.Deborah@epa.gov>; Fenton, Terry <fenton.terry@epa.gov>; Ross, Margaret

<Ross.Margaret@epa.gov>

Subject: IT -related purchases

Hiya! Do any of you guys have a contact in OEI who can walk us through what databases we may already have a license to for Response-to-Comment databases for rule-making? Horsley-Witten is on a fast track to get a database set up for WOTUS, and is looking at purchasing. I know there are several rules we have to follow if we go that route, so I'd like to know what licenses we already have- and besides- we will need to get OEI's approval.

-L

Laura Bachle, AICP

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, DC 20460

Desk: (202) 566.2468

bachle.laura@epa.gov

Message

From: Kwok, Rose [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D3D2987BA8F246A5A9E37773201FD180-KWOK, ROSE]
Sent: 5/18/2017 8:20:49 PM
To: Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]; Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]
CC: Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]
Subject: RE: Website - Add Presentations
Attachments: WOTUS2 tribal info and consultation - 5-18-2017.pdf

I think we should

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From: Bennett, Brittany
Sent: Thursday, May 18, 2017 3:58 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>
Cc: Kwok, Rose <Kwok.Rose@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Website - Add Presentations

Hey All – I'll

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B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Christensen, Damaris
Sent: Monday, May 15, 2017 10:34 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>
Subject: Re: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

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Damaris

Sent from my iPhone

On May 15, 2017, at 7:58 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

Would it make sense to

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From: Kwok, Rose
Sent: Monday, May 15, 2017 7:56 PM
To: Livingston, Peggy <Livingston.Peggy@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>;

Christensen, Damaris <Christensen.Damaris@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>;
Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

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From: Livingston, Peggy

Sent: Monday, May 15, 2017 5:17 PM

To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>;
Kwok, Rose <Kwok.Rose@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn
<wendelowski.karyn@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Hi. I gather that it's OK for Region 8 to provide copies of the letter, the press release, and the federalism powerpoint to state environmental directors and state agriculture directors. However, if it's not, would you please let me know by, say, mid-week? I've been getting calls from our RA's office. Thank you.

Peggy Livingston
Senior Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6858 (phone)
(303) 312-7202 (fax)

From: Livingston, Peggy

Sent: Friday, May 12, 2017 1:13 PM

To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>;
Kwok, Rose <Kwok.Rose@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn
<wendelowski.karyn@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Thank you. I just wanted to confirm that it is public. It looks public to me, but I wanted to be sure that was the case.

Peggy Livingston
Senior Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6858 (phone)
(303) 312-7202 (fax)

From: Wehling, Carrie

Sent: Friday, May 12, 2017 12:12 PM

To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>;

Livingston, Peggy <Livingston.Peggy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>;
Wendelowski, Karyn <wendelowski.karyn@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Deliberative Process / Ex. 5

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Christensen, Damaris

Sent: Friday, May 12, 2017 1:37 PM

To: Kwok, Rose <Kwok.Rose@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Deliberative Process / Ex. 5

Damaris

From: Kwok, Rose

Sent: Friday, May 12, 2017 1:19 PM

To: Livingston, Peggy <Livingston.Peggy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>

Subject: Re: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Hi Peggy,

Deliberative Process / Ex. 5

Rose Kwok

U.S. Environmental Protection Agency
Wetlands Division
kwok.rose@epa.gov
202-566-0657, 202-566-1375 (fax)

From: Livingston, Peggy
Sent: Friday, May 12, 2017 1:10:02 PM
To: Kwok, Rose; Christensen, Damaris; Downing, Donna; Wendelowski, Karyn; Wehling, Carrie
Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Deliberative Process / Ex. 5

Thank you very much.

Peggy Livingston
Senior Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6858 (phone)
(303) 312-7202 (fax)

From: Kwok, Rose
Sent: Tuesday, May 09, 2017 3:40 PM
To: OW-OWOW-WD <OWOWOWWD@epa.gov>; EPA Wetlands Managers <EPA_Wetlands_Managers@epa.gov>; Jensen, Stacey M CIV USARMY HQDA (US) <Stacey.M.Jensen@usace.army.mil>; Sachs, Erica <Sachs.Erica@epa.gov>; Williams, Ann <Williams.Ann@epa.gov>; Montella, Daniel <Montella.Daniel@epa.gov>; Lapp, Jeffrey <lapp.jeffrey@epa.gov>; Shamet, Stefania <Shamet.Stefania@epa.gov>; Somerville, Eric <Somerville.Eric@epa.gov>; Able, Tony <Able.Tony@epa.gov>; Melgin, Wendy <melgin.wendy@epa.gov>; Schaller, Andrea <schaller.andrea@epa.gov>; Fontenot, Alison <Fontenot.Alison@epa.gov>; Schafer, Jeannette <schafer.jeannette@epa.gov>; McCarthy, Julia <McCarthy.Julia@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Leidy, Robert <Leidy.Robert@epa.gov>; Dean, Heather <Dean.Heather@epa.gov>; Szalay, Endre

<Szalay.Endre@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>; Stokely, Peter <Stokely.Peter@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Flannery-Keith, Erin <Flannery-Keith.Erin@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Auerbach, Daniel <Auerbach.Daniel@epa.gov>; Keating, Jim <Keating.Jim@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>; Balasa, Kate <balasa.kate@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Cantilli, Robert <Cantilli.Robert@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>; Cindy Barger <cindy.s.barger.civ@mail.mil>; Morgan, James <Morgan.James@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Alexander, Laurie <Alexander.Laurie@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>

Cc: Peterson, Carol <Peterson.Carol@epa.gov>; Speir, Jeffrey <speir.jeffrey@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Horchem, Brad <horchem.brad@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>; Gude, Karen <Gude.Karen@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Kovac, Steve <Kovac.Steve@epa.gov>

Subject: FW: EPA and U.S. Army Solicit State Input on Redefining “Waters of the U.S.”

Hi Folks,

FYI, letters signed by the Administrator and Mr. Douglas Lamont (Senior Official Performing the Duties of the Assistant Secretary of the Army, Civil Works) are being sent out today to all of the governors (the last we heard from OCIR earlier this afternoon, they were still transmitting the letters via email and would be mailing a hard copy soon) regarding the forthcoming WOTUS rulemakings. I’ve attached a sample of the letters that were sent out, and the press release is below. We have notified the Administrator’s office of a typo in the press release Deliberative Process / Ex. 5 but wanted to be sure you had these materials as an FYI. I’ll also be posting these items to the SharePoint site. Please let us know if you have any questions. We heard that this press release went out at 11 am today.



CONTACT:

press@epa.gov

FOR IMMEDIATE RELEASE

May 9, 2017

EPA and U.S. Army Solicit State Input on Redefining “Waters of the U.S.”

“EPA is restoring states’ important role in the regulation of water” – Administrator Pruitt

WASHINGTON – U.S. Environmental Protection Agency and the U.S. Army sent a letter to governors today soliciting input from states on a new definition of protected waters that is in-line

with a Supreme Court Justice Antonin Scalia's opinion in the 2006 *Rapanos v. United States* case. Scalia's definition explains that federal oversight should extend to "relatively permanent" waters and wetlands with a "continuous surface connection" to large rivers and streams.

"EPA is restoring states' important role in the regulation of water," **said EPA Administrator Scott Pruitt**. "Like President Trump, I believe that we need to work with our state governments to understand what they think is the best way to protect their waters, and what actions they are already taking to do so. We want to return to a regulatory partnership, rather than regulate by executive fiat."

"The Army, together with the Corps of Engineers, is committed to working closely with and supporting the EPA on these rulemakings. As we go through the rulemaking process, we will continue to make the implementation of the Clean Water Act Section 404 regulatory program as transparent as possible for the regulated public," **said Douglas Lamont, senior official performing the duties of the Assistant Secretary of the Army for Civil Works.**

The Clean Water Act asserts federal control over "traditionally navigable waters" without providing clarity or details about the law's scope. President Donald Trump signed an executive order on February 28, 2017 to direct federal agencies to roll back and replace the Obama Administration's Clean Water Rule – also known as the "Waters of the U.S." or WOTUS – to ensure that the nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the States under the Constitution.

To meet the objectives of the executive order, federal agencies are following a two-step process that will provide as much certainty as possible, as quickly as possible, to the regulated community and the public during the development of the replacement rule.

The first step is to revise the Code of Federal Regulations to re-codify the definition of "Waters of the United States" which currently governs administration of the Clean Water Act, in light of a decision by the U.S. Court of Appeals for the Sixth Circuit staying a definition of "Waters of the United States" promulgated by the agencies in 2015. This action will simply make the text of the Code of Federal Regulations reflect the definition currently in effect under the Sixth Circuit stay. This action, when final, will not change current practice with respect to the how the definition applies, which is consistent with Supreme Court decisions, agency guidance documents, and longstanding practice.

The second step will be a public notice-and-comment rulemaking involving a substantive reevaluation and revision of the definition of "Waters of the U.S." in accordance with the executive order. The letter sent to governors today is seeking input on the second step of the process.

R079

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking [here](#).
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

Message

From: Bowman, Liz [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C3D4D94D3E4B4B1F80904056703EBC80-BOWMAN, ELI]
Sent: 5/15/2017 8:35:46 PM
To: Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
CC: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]; Fagan, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=636207286dc84c7da82900aec48f7277-Fagan,Susan]; Dibble, Christine [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d2765742fc04d3a93fdb719d6496779-CDibbl03]; MacKinnon, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca6d80cff786462fa2e811e782f837d2-Kmackinn]; Hart, Daniel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c6c7bdc1904543f497682a2da94a1119-Hart, Daniel]
Subject: RE: Draft WOTUS Web Press Release
Attachments: 2017-05-15 Final WOTUS Website Release.docx

Attached, please find the final release with Army's edits incorporated. We will hit send as soon as I get the word from Danny that we are live and ready to go. Thanks for your help – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 1:02 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: Draft WOTUS Web Press Release

Yes, giving Army and Corps a heads up would be good. Either I can send or you can send it to Cindy Barger and she can coordinate.

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Monday, May 15, 2017 1:00 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: Draft WOTUS Web Press Release

Press release is attached (with Sarah and Mindy's edits incorporated); should we send this to Army to let them know we are sending it. Who can I contact over there?

Thank you – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 12:42 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: Draft WOTUS Web Press Release

Thanks Liz,
Here are a few edits. Let me know if you have any questions.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Monday, May 15, 2017 12:34 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: Draft WOTUS Web Press Release

Hi Mindy – Attached, please find the draft press release; please review for accuracy and send me any necessary edits in tracked changes. Thank you – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 10:47 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Hi Nancy,
We're still waiting for some comments on the site, so we'll keep everyone posted.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Grantham, Nancy
Sent: Monday, May 15, 2017 10:01 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Checking in on timing here so OEI has an idea of when they will be turning on the redirect (the new page needs to be live prior to that happening).

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Personal Phone / Ex. 6 **mobile)**

From: Eisenberg, Mindy
Sent: Friday, May 12, 2017 3:27 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

Thanks Liz. Haven't heard from Sarah yet. I think it may be better to aim for Monday afternoon to go live so we can have OGC, Sarah and Army take last review and then make any necessary edits.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Friday, May 12, 2017 3:13 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: Re: About WOTUS Page

As long as Sarah also looks at it all, it looks good to me from a comm side. I still need to work up a draft press release. I have been focused on Pebble Mine, so I will probably need to do the release over the weekend :/. It shouldn't be too complicated.

Sent from my iPhone

On May 12, 2017, at 2:04 PM, Eisenberg, Mindy <Eisenberg.Mindy@epa.gov> wrote:

Hi Liz,

You were interested in seeing where some of the links went. In the attachments that Brittany PDF'ed the links are live. However, some of these pages (such as **Deliberative Process / Ex. 5**) are not public yet and can only be accessed when logged into WCMS. If you would like for Brittany to walk you through, she can come over to your office.

Thanks!

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Thursday, May 11, 2017 3:42 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

A few questions/edits:

-
-
- **Deliberative Process / Ex. 5**
-

Deliberative Process / Ex. 5

Thank you for your help and work on this! Please let me know if you have further questions. Thank you – Liz

From: Eisenberg, Mindy
Sent: Thursday, May 11, 2017 12:25 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: FW: About WOTUS Page

Hi Liz and Sarah,
Please use this PDF for “About WOTUS” on the new website. A couple of pages accidentally got left off.

Thanks!
Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 11, 2017 11:53 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: About WOTUS Page

Mindy – It looks like the last page of the About WOTUS webpage is missing from the email you guys received. I’m not sure how this happened, but I’m attaching a new version that has the last page included. This includes links to the wetlands page and other CWA programs.

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>

<404 WOTUS with Links.pdf>

Message

From: Kwok, Rose [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D3D2987BA8F246A5A9E37773201FD180-KWOK, ROSE]
Sent: 5/15/2017 7:35:11 PM
To: Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]
CC: Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]
Subject: RE: About WOTUS Page

Oh, good to hear

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 3:33 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>
Subject: Re: About WOTUS Page

I've reviewed and Army along with Sarah.

Sent from my iPhone

On May 15, 2017, at 3:31 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

Okay, thanks. Will we have a chance for a quick review? Or not until after it's gone out....

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 3:30 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>
Subject: Re: About WOTUS Page

Deliberative Process / Ex. 5

Sent from my iPhone

On May 15, 2017, at 3:28 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Christensen, Damaris
Sent: Monday, May 15, 2017 3:25 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Kwok, Rose <Kwok.Rose@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Re: About WOTUS Page

Question: should we recommend Deliberative Process / Ex. 5?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

If we just did **Deliberative Process / Ex. 5**

Damaris

Sent from my iPhone

On May 15, 2017, at 2:28 PM, Bennett, Brittany <bennett.brittany@epa.gov> wrote:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Also, is this the 2001 SWANCC guidance? I'll add it if so.

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Kwok, Rose
Sent: Monday, May 15, 2017 2:28 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>
Subject: RE: About WOTUS Page

Deliberative Process / Ex. 5

From: Bennett, Brittany
Sent: Monday, May 15, 2017 2:24 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>
Subject: RE: About WOTUS Page

Deliberative Process / Ex. 5

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Kwok, Rose
Sent: Monday, May 15, 2017 2:09 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen,

Damaris <Christensen.Damaris@epa.gov>

Subject: RE: About WOTUS Page

One additional edit to the About WOTUS on WOTUS: superseded is misspelled as supeceded in the June 2007 Legal Memorandum bullet.

Also – you answered my other questions, but are we not supposed to

Deliberative Process / Ex. 5

The WOTUS page on the 404 site:

-

-

-

Deliberative Process / Ex. 5

-

-

From: Kwok, Rose

Sent: Monday, May 15, 2017 1:43 PM

To: Bennett, Brittany <bennett.brittany@epa.gov>

Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen,

Damaris <Christensen.Damaris@epa.gov>

Subject: RE: About WOTUS Page

Brittany –

Looking at the pages in Drupal but didn't want to change anything in case...

Some comments:

About WOTUS on WOTUS page:

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Deliberative Process / Ex. 5

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-
-
-
-
-

Deliberative Process / Ex. 5

From: Bennett, Brittany
Sent: Monday, May 15, 2017 11:05 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: RE: About WOTUS Page

Update that all edits from Mindy and OGC have been incorporated. Still waiting to hear back from Sarah. John gave general approval of the website when I did a brief walkthrough with him earlier.

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Grantham, Nancy
Sent: Monday, May 15, 2017 10:47 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

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Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Personal Phone / Ex. 6 **(mobile)**

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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

- ## Deliberative Process / Ex. 5

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<About WOTUS with Links v2.pdf>

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To: Kwok, Rose [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3d2987ba8f246a5a9e37773201fd180-Kwok, Rose]
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Deliberative Process / Ex. 5

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To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>;
Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: FW: About WOTUS Page

Hi Liz and Sarah,
Please use this PDF for “About WOTUS” on the new website. A couple of pages accidentally got left off.

Thanks!
Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 11, 2017 11:53 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: About WOTUS Page

Mindy – It looks like the last page of the About WOTUS webpage is missing from the email you guys received. I'm not sure how this happened, but I'm attaching a new version that has the last page included. This includes links to the wetlands page and other CWA programs.

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>

<404 WOTUS with Links.pdf>

Message

From: Bowman, Liz [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C3D4D94D3E4B4B1F80904056703EBC80-BOWMAN, ELI]
Sent: 5/15/2017 5:00:24 PM
To: Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
CC: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]; Fagan, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=636207286dc84c7da82900aec48f7277-Fagan,Susan]; Dibble, Christine [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d2765742fc04d3a93fdb719d6496779-CDibbl03]; MacKinnon, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca6d80cff786462fa2e811e782f837d2-Kmackinn]; Hart, Daniel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c6c7bdc1904543f497682a2da94a1119-Hart, Daniel]
Subject: RE: Draft WOTUS Web Press Release
Attachments: 2017-05-15 Draft WOTUS Website Release (SG edits)_mge.docx

Press release is attached (with Sarah and Mindy's edits incorporated); should we send this to Army to let them know we are sending it. Who can I contact over there?

Thank you – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 12:42 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
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Thanks Liz,
Here are a few edits. Let me know if you have any questions.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Monday, May 15, 2017 12:34 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: Draft WOTUS Web Press Release

Hi Mindy – Attached, please find the draft press release; please review for accuracy and send me any necessary edits in tracked changes. Thank you – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 10:47 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Hi Nancy,
We're still waiting for some comments on the site, so we'll keep everyone posted.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Grantham, Nancy
Sent: Monday, May 15, 2017 10:01 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Checking in on timing here so OEI has an idea of when they will be turning on the redirect (the new page needs to be live prior to that happening).

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Personal Phone / Ex. 6

From: Eisenberg, Mindy
Sent: Friday, May 12, 2017 3:27 PM

To: Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>

Subject: RE: About WOTUS Page

Thanks Liz. Haven't heard from Sarah yet. I think it may be better to aim for Monday afternoon to go live so we can have OGC, Sarah and Army take last review and then make any necessary edits.

Mindy

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eisenberg.mindy@epa.gov

From: Bowman, Liz

Sent: Friday, May 12, 2017 3:13 PM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>

Subject: Re: About WOTUS Page

As long as Sarah also looks at it all, it looks good to me from a comm side. I still need to work up a draft press release. I have been focused on Pebble Mine, so I will probably need to do the release over the weekend :/. It shouldn't be too complicated.

Sent from my iPhone

On May 12, 2017, at 2:04 PM, Eisenberg, Mindy <Eisenberg.Mindy@epa.gov> wrote:

Hi Liz,

You were interested in seeing where some of the links went. In the attachments that Brittany PDF'ed the links are live. However, some of these pages (such as **Deliberative Process / Ex. 5**) are not public yet and can only be accessed when logged into WCMS. If you would like for Brittany to walk you through, she can come over to your office.

Thanks!

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Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
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Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

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Sent: Thursday, May 11, 2017 3:42 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>;
Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

A few questions/edits:

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Deliberative Process / Ex. 5

Thank you for your help and work on this! Please let me know if you have further questions. Thank you – Liz

From: Eisenberg, Mindy
Sent: Thursday, May 11, 2017 12:25 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>;
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eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 11, 2017 11:53 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: About WOTUS Page

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Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>
<404 WOTUS with Links.pdf>

Message

From: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Sent: 5/12/2017 7:43:21 PM
To: Bowman, Liz [Bowman.Liz@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]
CC: Grantham, Nancy [Grantham.Nancy@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]
Subject: RE: About WOTUS Page

Sorry guys, I've been swamped. Will review this weekend and provide any comments before Monday. Great work on this guys!

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Personal Phone / Ex. 6
Greenwalt.Sarah@epa.gov

From: Bowman, Liz
Sent: Friday, May 12, 2017 3:42 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: Re: About WOTUS Page

That sounds like a good plan

Sent from my iPhone

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Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz

Sent: Thursday, May 11, 2017 3:42 PM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>;
MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>

Subject: RE: About WOTUS Page

A few questions/edits:

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Deliberative Process / Ex. 5

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- # Deliberative Process / Ex. 5
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Sent: Thursday, May 11, 2017 12:25 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
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ph: 202.564.1896
Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>

<404 WOTUS with Links.pdf>

Message

From: Bowman, Liz [Bowman.Liz@epa.gov]
Sent: 5/12/2017 7:42:06 PM
To: Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]
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Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
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To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Subject: RE: About WOTUS Page

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Deliberative Process / Ex. 5

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Sent: Thursday, May 11, 2017 12:25 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany

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Sent: Thursday, May 11, 2017 11:53 AM
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Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>

<404 WOTUS with Links.pdf>

Message

From: Bowman, Liz [Bowman.Liz@epa.gov]
Sent: 5/12/2017 7:13:20 PM
To: Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]
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Deliberative Process / Ex. 5

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<404 WOTUS with Links.pdf>

Message

From: Kwok, Rose [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D3D2987BA8F246A5A9E37773201FD180-KWOK, ROSE]
Sent: 5/11/2017 3:42:14 PM
To: Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]; Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]
Subject: RE: draft WOTUS website

P.S – can you update **Deliberative Process / Ex. 5**

From: Kwok, Rose
Sent: Thursday, May 11, 2017 11:41 AM
To: Bennett, Brittany <bennett.brittany@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: draft WOTUS website

Thanks for that – I have a whole bunch of emails from last week while I was on travel that I apparently still need to read, so I apologize for not being up to date. I think **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

I do think **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Bennett, Brittany
Sent: Thursday, May 11, 2017 11:13 AM
To: Kwok, Rose <Kwok.Rose@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: draft WOTUS website

Rose,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

• Deliberative Process / Ex. 5

•

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

Deliberative Process / Ex. 5

.....

Cc: Bennett, Brittany <bennett.brittany@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>

Subject: RE: draft WOTUS website

FYI, a few thoughts on the web pages if it isn't too late to incorporate. Based on the attachments with the 6:59 transmittal email below.

(it isn't worth fixing the typo in the title but I just noticed it)

Damaris

From: Eisenberg, Mindy

Sent: Wednesday, May 10, 2017 6:59 PM

To: Bowman, Liz <Bowman.Liz@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>

Subject: draft WOTUS website

Hi Liz and Sarah,

As promised, I'm sending you the info on how to find the draft pages in Web CMS and attaching PDFs of the draft web pages (which look slightly different than the web version). A little explanation of the PDFs – the draft WOTUS homepage is the landing page for the new site. About WOTUS, FAQs, and Rulemaking process PDFs are all on the WOTUS rulemaking site. The draft 404 PDF is what we are placing on our CWA Section 404 microsite as we discussed yesterday. OGC and Army/Corps would like to do a final review prior to going live on Monday, so let me know when you are ready for their review. And if you want us to make changes to the pages, just let us know.

Once you log into Web CMS, I think you can look up each page/note by typing in **Nonresponsive Internal URL/ Ex. 6**

Nonresponsive Internal URL/ Ex. 6

Notes:

1. Work still in progress: creating document pages.
 - a. A note about document pages: EPA web policy requires that all documents (such as PDFs) are linked through an intermediary page, called a document page. A user clicks a link for a PDF on an EPA web page, is directed to a document page, and then can click the link on that document page which takes them to the actual PDF. Currently, many document links in the new web pages will take you directly to the PDF rather than the document page. Document pages will be completed before publication on Monday.
 - b. This process does NOT impact the content of the website.
2. Work still in progress: Brittany is quadruple checking that all links are working as expected.

Thanks,
Mindy

Message

From: Kwok, Rose [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D3D2987BA8F246A5A9E37773201FD180-KWOK, ROSE]
Sent: 5/9/2017 9:29:49 PM
To: Eisenberg, Mindy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfb4c26bb6f44c7db69f9884628b3ef9-Eisenberg, Mindy]; Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Downing, Donna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d853e50d3a2b489daf2cc498c052e3d6-DDowning]
Subject: RE: Looping in the Regions

I'll email these around to the workgroup and managers as my role as acting team lead for Donna.

From: Eisenberg, Mindy
Sent: Tuesday, May 09, 2017 5:18 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: RE: Looping in the Regions

Yes, we need to **Deliberative Process / Ex. 5**

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Christensen, Damaris
Sent: Tuesday, May 09, 2017 5:07 PM
To: Downing, Donna <Downing.Donna@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: Looping in the Regions

Hey all,

I just wanted to flag for consideration the issue of **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Honestly I'm not sure **Deliberative Process / Ex. 5**

Damaris

From: Cook-Shyovitz, Becky
Sent: Tuesday, May 09, 2017 4:37 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>
Subject: FW: Question on WOTUS Letters?

Hi Damaris- did Deliberative Process / Ex. 5

From: Maier, Brent
Sent: Tuesday, May 09, 2017 4:35 PM
To: Cook-Shyovitz, Becky <Cook-Shyovitz.Bekky@epa.gov>
Cc: Bowles, Jack <Bowles.Jack@epa.gov>
Subject: Question on WOTUS Letters?

Becky –

Request from our Acting RA on Deliberative Process / Ex. 5 I know letters went to Governors, but not sure who to ask in HQ as to whether Deliberative Process / Ex. 5 Would you happen to know should be reached out to in HQ on this?

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256

From: Strauss, Alexis
Sent: Tuesday, May 09, 2017 1:28 PM
To: Maier, Brent <Maier.Brent@epa.gov>
Cc: Zito, Kelly <ZITO.KELLY@EPA.GOV>; Torres, Tomas <Torres.Tomas@epa.gov>
Subject: RE: FYI - EPA, Army Corps want state input on WOTUS rewrite - Letters to R9 Governors

Please ask HQ if Deliberative Process / Ex. 5

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

From: Maier, Brent
Sent: Tuesday, May 9, 2017 12:35 PM
To: Torres, Tomas <Torres.Tomas@epa.gov>; Brush, Jason <Brush.Jason@epa.gov>; Amato, Paul <Amato.Paul@epa.gov>; Marincola, JamesPaul <Marincola.JamesPaul@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>
Cc: Keener, Bill <Keener.Bill@epa.gov>; Zito, Kelly <ZITO.KELLY@EPA.GOV>; Higuchi, Dean <Higuchi.Dean@epa.gov>; Mogharabi, Nahal <MOGHARABI.NAHAL@EPA.GOV>; PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>; Huitric, Michele <Huitric.Michele@epa.gov>
Subject: FYI - EPA, Army Corps want state input on WOTUS rewrite - Letters to R9 Governors

I am attaching copies of letters sent to R9 Governors for your reference. OCIR also included the PDF of a PowerPoint on federalism when they sent each letter.

From today's Greenwire:

EPA, Army Corps want state input on WOTUS rewrite

Ariel Wittenberg, E&E News reporter - Published: Tuesday, May 9, 2017



U.S. EPA has asked for state input on how to define which wetlands and small waterways are covered by the Clean Water Act. Photo courtesy of Army Corps of Engineers.

The Trump administration is asking states for advice on how to define which wetlands and small waterways are covered by the Clean Water Act.

U.S. EPA Administrator Scott Pruitt and acting Assistant Secretary of the Army for Civil Works Douglas Lamont sent letters to governors today asking for "input and wisdom" on how to redraw federal jurisdiction.

"Consulting with state and local government officials, or their representative national organizations, is a priority for us and President Trump," the **letter** says.

The letter is the latest step in the Trump administration's efforts to roll back federal jurisdiction over wetlands and small waterways following the Obama administration's 2015 Clean Water Rule.

That controversial regulation, also known as the Waters of the U.S., or WOTUS, rule, was opposed by farmers, land developers and the energy industry, who labeled it government overreach.

The Trump administration has already moved to repeal the WOTUS rule, which is currently stayed by the 6th U.S. Circuit Court of Appeals. A proposal to revoke WOTUS is pending White House review.

But the Trump administration says it won't stop there. After repealing WOTUS, it wants to replace the regulation with one that will line up federal Clean Water Act oversight with the views expressed by the late Supreme Court Justice Antonin Scalia.

In the 2006 *Rapanos v. United States* case, Scalia wrote that federal protection extends only to "relatively permanent" waters and wetlands with a continuous surface connection to larger rivers and streams.

In their letter, Pruitt and Lamont ask states how a Scalia-based regulation would affect them.

"We want to clearly understand what definition will work best for your state as we develop a new federal definition of 'waters of the U.S.' consistent with the Scalia opinion," they write. "In addition, we are interested in understanding how your state might respond to a reduced scope of federal jurisdiction under the Clean Water Act."

The Trump administration's approach is a significant departure from how the Obama and George W. Bush administrations defined "waters of the United States." They both relied on Justice Anthony Kennedy's *Rapanos* opinion that waters must have a "significant nexus" to navigable rivers and seas. That nexus could include not just surface connections but also biological or chemical ones.

Brent Maier

Congressional Liaison

U.S. Environmental Protection Agency, Region IX

75 Hawthorne St. (OPA-3)

San Francisco, CA 94105

Ph: 415.947.4256

To: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Greenwalt, Sarah[greenwalt.sarah@epa.gov]
From: Bowman, Liz
Sent: Tue 5/9/2017 7:38:06 PM
Subject: RE: EPA and U.S. Army Solicit State Input on Redefining “Waters of the U.S.”

Oh good to know, thank you.

From: Eisenberg, Mindy
Sent: Tuesday, May 9, 2017 3:14 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: FW: EPA and U.S. Army Solicit State Input on Redefining “Waters of the U.S.”

Glad that the letters are going out today. Just wanted to flag

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Moore, Kristie [Moore.Kristie@epa.gov]
Sent: 5/9/2017 11:08:09 AM
To: Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Weinstock, Larry [Weinstock.Larry@epa.gov]
Subject: FW: REVIEW: FY18 Budget Press Conference/Hearing Papers
Attachments: Fact Sheet for FY18 Budget -- WOTUS v2sc.docx

Mindy and Larry,

Attached includes Sandra's edits. I sent these to OW yesterday afternoon, but let me know if you have any concern. I can do a quick follow-up today.

Kristie

Kristie M. Moore
Office of Wetlands Oceans and Watersheds
U.S. Environmental Protection Agency
EPA West
1200 Pennsylvania Ave., NW
MC-4501 T
Washington, DC, 20460
office: (202) 566-1616
fax: (202) 566-1544

From: Connors, Sandra
Sent: Monday, May 08, 2017 3:41 PM
To: Moore, Kristie <Moore.Kristie@epa.gov>
Subject: RE: REVIEW: FY18 Budget Press Conference/Hearing Papers

Kristie – Wasn't sure how to edit on SP so just edited in Word. Maybe I can get a tutorial when you are back in 😊

Sandra

Sandra L. Connors
Deputy Director
Office of Wetlands, Oceans, and Watersheds
US Environmental Protection Agency, MC 4501T
1200 Pennsylvania Avenue, WJCW 7130A
Washington, DC 20460
(202)564-4231
connors.sandra@epa.gov

From: Moore, Kristie
Sent: Friday, May 05, 2017 11:10 AM
To: Connors, Sandra <Connors.Sandra@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Cc: Brown, Robert <Brown.Robert@epa.gov>; Chancey, Barbara <Chancey.Barbara@epa.gov>
Subject: REVIEW: FY18 Budget Press Conference/Hearing Papers

Sandra,

Attached are the FY18 press conference/hearing papers prepared by OWOW. They're also in a folder called "For Sandra and John's Review" on SharePoint. WOTUS is the only one due on Monday (still waiting on this one), but we can expect the other papers will likely be due soon after.

The FY18 President's Budget will be released on **Monday, May 22**.

Deliberative Process / Ex. 5

The Senate Appropriation Committee Hearing is **June 27**.

Deliberative Process / Ex. 5

Attached factsheets:

Deliberative Process / Ex. 5

What I still owe you:

Deliberative Process / Ex. 5

Up in the air:

Deliberative Process / Ex. 5

I'll drop-off hard copies. Please let me know what edits you have.

Thank you,
Kristie

Kristie M. Moore
Office of Wetlands Oceans and Watersheds
U.S. Environmental Protection Agency
EPA West
1200 Pennsylvania Ave., NW
MC-4501 T
Washington, DC, 20460
office: (202) 566-1616
fax: (202) 566-1544

Message

From: Kwok, Rose [Kwok.Rose@epa.gov]
Sent: 5/8/2017 5:24:53 PM
To: Christensen, Damaris [Christensen.Damaris@epa.gov]; Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; Downing, Donna [Downing.Donna@epa.gov]; Orvin, Chris [Orvin.Chris@epa.gov]
CC: Cook-Shyovitz, Becky [Cook-Shyovitz.Becky@epa.gov]
Subject: RE: PowerPoint for Chris
Attachments: federalism FINAL ppt 4-19-17.pdf

Chris – here is the PDF of the PPT. Please let me know if you need me to print off copies. Thanks.

From: Kwok, Rose
Sent: Monday, May 08, 2017 1:19 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>
Cc: Cook-Shyovitz, Becky <Cook-Shyovitz.Becky@epa.gov>
Subject: RE: PowerPoint for Chris

Sorry – to be clear – you need a PDF of the final PPT from federalism meeting?

From: Christensen, Damaris
Sent: Monday, May 08, 2017 1:18 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Cook-Shyovitz, Becky <Cook-Shyovitz.Becky@epa.gov>
Subject: PowerPoint for Chris

See below - Rose can you either send Chris the final or coordinate to make sure it gets printed? Thanks!

Damaris

Sent from my iPhone

Begin forwarded message:

From: "Orvin, Chris" <Orvin.Chris@epa.gov>
Date: May 8, 2017 at 1:11:48 PM EDT
To: "Christensen, Damaris" <Christensen.Damaris@epa.gov>
Subject: RE: Final Governor's Letter

Hey Damaris, do you want to bring my the PPTs when they are ready, or should I pick them up from you on my way over to OCIR? Happy to do either.

I'm in East 3311H, by the way.

Chris Orvin
U.S Environmental Protection Agency
Office of Water
Special Assistant to the Chief of Staff
202-564-0430

From: Peck, Gregory
Sent: Monday, May 08, 2017 1:08 PM
To: Cook-Shyovitz, Becky <Cook-Shyovitz.Bekky@epa.gov>
Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; Craig R SES (US) Schmauder <craig.r.schmauder.civ@mail.mil>; Orvin, Chris <Orvin.Chris@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Cindy Barger <cindy.s.barger.civ@mail.mil>
Subject: Re: Final Governor's Letter

OK. I'm trying to manage this in OW do we don't get wires crossed. Chris will have staff here print 55 copies of the attachment in Damaris' email and he can take it to OCIR when he picks up the signed letters.

Thnx.

Gregory E. Peck
Chief of Staff
Office of Water
U.S.Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On May 8, 2017, at 1:00 PM, Cook-Shyovitz, Becky <Cook-Shyovitz.Bekky@epa.gov> wrote:

Yes – please print out 55 copies, and you can bring them to me.

From: Christensen, Damaris
Sent: Monday, May 08, 2017 12:55 PM
To: Cook-Shyovitz, Becky <Cook-Shyovitz.Bekky@epa.gov>
Cc: Peck, Gregory <Peck.Gregory@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; Craig R SES (US) Schmauder <craig.r.schmauder.civ@mail.mil>; Orvin, Chris <Orvin.Chris@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Cindy Barger <cindy.s.barger.civ@mail.mil>
Subject: Re: Final Governor's Letter

y'all may have already taken care of this but - we have to make sure there's a copy of the federalism PowerPoint to enclose with each letter. Let us know if you need us to print out 50 copies and who to coordinate with if so.

Damaris

Sent from my iPhone

On May 8, 2017, at 12:50 PM, Cook-Shyovitz, Becky <Cook-Shyovitz.Bekky@epa.gov> wrote:

FYI – we're starting production now and should have them auto-penned and ready for pickup in about 2 hours.

Becky

From: Peck, Gregory
Sent: Monday, May 08, 2017 10:47 AM
To: Bowles, Jack <Bowles.Jack@epa.gov>
Cc: Cook-Shyovitz, Becky <Cook-Shyovitz.Becky@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Craig R SES (US) Schmauder <craig.r.schmauder.civ@mail.mil>; Orvin, Chris <Orvin.Chris@epa.gov>
Subject: Re: Final Governor's Letter

OK. Let me know when you have the letters printed and ready for pick up.
Chris Orvin from my staff will pick them up.

Thanks

Gregory E. Peck
Chief of Staff
Office of Water
U.S.Environmental Protection Agency
Washington, DC 20460

(202)564-5700

On May 8, 2017, at 10:42 AM, Bowles, Jack <Bowles.Jack@epa.gov> wrote:

Sounds good to me. Becky, does that work?

Greg, they will want one spit out earlier as an example, they haven't told me yet which Gov but will soon.

If you could have That one signed first, and then scanned/mailed to Becky, we could get that one done and to those need it for PR.

Best,
Jack

Sent from my iPhone

On May 8, 2017, at 10:16 AM, Peck, Gregory <Peck.Gregory@epa.gov> wrote:

Yes. We anticipated the need for individual letters and Army is standing by. If you would prefer Doug to sign first - can you print the 54 letters and I can pick them up and work with Army to sign and return for Pruitt's signature.

Gregory E. Peck
Chief of Staff
Office of Water
U.S.Environmental Protection Agency

Washington, DC 20460

(202)564-5700

On May 8, 2017, at 10:11 AM, Bowles,
Jack <Bowles.Jack@epa.gov> wrote:

Hi Greg,
Our folks want
personalized letters,
meaningful mail
merged address blocks
and salutations, and
auto penning 54
separate letters. Is
Army aware of this and
do they have that
capability? If not we
may be signing first.
Regardless, the
politicals want at least
one done earlier so
they use it for
notifications and PR.

Is there a good contact
for Becky to work with
at Army to expedite this
painful process?

Sent from my iPhone

On May 8, 2017, at 9:46
AM, Peck, Gregory
<Peck.Gregory@epa.gov
v> wrote:

Yes.
Doug is
all set
to sign.

Thanks
Jack

Gregor
y E.
Peck
Chief of
Staff
Office
of
Water

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Protecti
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Agency
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DC 20
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(202)56
4-5700

On May
8, 2017,
at 9:31
AM,
Bowles,
Jack

<[Bowles.Jack@
epa.gov](mailto:Bowles.Jack@epa.gov)
>

wrote:

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Letter on WOTUS we coordinate with the Army. I understand the OAO

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To: Christensen, Damaris[Christensen.Damaris@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]
From: Brush, Jason
Sent: Wed 5/3/2017 9:06:31 PM
Subject: FW: Final WOTUS ppt for R9 RTOC ?

Thanks! That clarification of #2 really helps. However, is it better to say: **Deliberative Process / Ex. 5** ? **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5 ? What if **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5

From: Christensen, Damaris
Sent: Wednesday, May 03, 2017 1:57 PM
To: Brush, Jason <Brush.Jason@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: Final WOTUS ppt for R9 RTOC ?

Hey there!

I'm copying Mindy so she can weigh in also. Sorry about the kerfuffle at the Region –

1. My personal take on **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5
2. **Deliberative Process / Ex. 5**
3. **Deliberative Process / Ex. 5**

Damaris

From: Brush, Jason
Sent: Wednesday, May 03, 2017 4:08 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: FW: Final WOTUS ppt for R9 RTOC ?
Importance: High

Yes, one question is on **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5
Deliberative Process / Ex. 5
Deliberative Process / Ex. 5

Thanks - Jason

Jason A. Brush
Acting Assistant Director, Water Division
U.S. Environmental Protection Agency, Region 9

75 Hawthorne Street (WTR-2)

San Francisco, CA 94105

~~~~~

desk: 415.972.3483

~~~~~

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Cc: Downing, Donna <Downing.Donna@epa.gov>

Subject: RE: Final WOTUS ppt for R9 RTOC ?

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Subject: Re: Final WOTUS ppt for R9 RTOC ?

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Rose Kwok

U.S. Environmental Protection Agency

Wetlands Division

kwok.rose@epa.gov

202-566-0657, 202-566-1375 (fax)

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Sent: Wednesday, May 3, 2017 1:07:38 PM

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Cc: Downing, Donna

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Jason A. Brush
Acting Assistant Director, Water Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (WTR-2)
San Francisco, CA 94105

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**desk: 415.972.3483**

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Sent: Wednesday, May 03, 2017 9:43 AM
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Cc: Amato, Paul <Amato.Paul@epa.gov>
Subject: FW: WOTUS Information Session at May R9 RTOC Meeting

This is the latest version I saw. We need to correct the typo (Regional Tribal Operations Committee).

~~~~~

Gail Louis, Manager  
Tribal Water Section  
US EPA Region 9, Water Division  
75 Hawthorne Street (WTR-3-4)  
San Francisco, CA 94105  
Phone: (415) 972-3467  
Fax: (415) 947-3537  
Email: [louis.gail@epa.gov](mailto:louis.gail@epa.gov)

~~~~~

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To: Ebbert, Laura <Ebbert.Laura@epa.gov>; Amato, Paul <Amato.Paul@epa.gov>; Brush, Jason <Brush.Jason@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Mojica Hernandez, Ruben <mojica-hernandez.ruben@epa.gov>; Louis, Gail <Louis.Gail@epa.gov>

Cc: Gude, Karen <Gude.Karen@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>

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Subject: RE: WOTUS Information Session at May R9 RTOC Meeting

Here's the DRAFT powerpoint.

Damaris

-----Original Appointment-----

From: Christensen, Damaris

Sent: Saturday, April 22, 2017 10:56 PM

To: Christensen, Damaris; Ebbert, Laura; Amato, Paul; Brush, Jason; Eisenberg, Mindy; Bennett, Brittany; Mojica Hernandez, Ruben; Louis, Gail

Cc: Gude, Karen; Kwok, Rose; Wesson, Dolores

Subject: WOTUS Information Session at May R9 RTOC Meeting

When: Monday, April 24, 2017 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: DCRoomWest7129/DC-CCW-OWOW also Nonresponsive Conference Code/ Ex. 6

Hi all,

Call-in: Nonresponsive Conference Code/ Ex. 6

This is to touch base about the R9 RTOC tribal info session/ leader to leader consultation. Karen is on Personal Matters / Ex. 6 but then Personal Matters / Ex. 6 we'll make sure to coordinate here at HQ. Personal Matters / Ex. 6

I'm attaching the tribal consultation letter that went out Thursday, and Karen's email below initially reaching out to Laura. We have a draft powerpoint as well and I'll try to send a copy of that when we get a few more comments from people.

I do have one question for you all: is this meeting set-up likely to allow for people from EPA HQ or Corps HQ to call in?

Damaris

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Sent: Tuesday, April 18, 2017 7:13 AM

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Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>

Subject: Seeking WOUS Information Session at May R9 RTOC Meeting, if Possible

Laura,

Hi. I wanted to follow up to our conversation late last week with regard to the possibility of scheduling an information session for tribes with regard to the upcoming tribal consultation and coordination on a forthcoming proposal to rescind and then revise the definition of "waters of the United States." (Clean Water Rule: Definition of "Waters of the United States"; Final Rule, 80 Fed. Reg. 37,054 (June 29, 2015)). If possible, we would like to schedule a session with tribes on May 4 as part of the Region 9 RTOC meeting, structuring the meeting as an information session with tribes, followed by a few minutes reserved for government-to-government consultation and/or tribal comments to allow tribes that are willing and/or able to provide input.

I'm including some background information on this effort below. OW plans to initiate tribal consultation as early as this week. I'm cc'ing Damaris Christensen and Delores Wesson, both of OW/OWOW, who have been working on the tribal consultation preparations related to this action, for awareness. OWOW is working to confirm a point person to present information/manage the tribal information session at the R9 RTOC meeting.

Any assistance in coordinating and/or scheduling a session at the RTOC would be greatly appreciated. If you should have any questions or concerns or should need any additional information from us, please do not hesitate to let me know.

Background information:

On February 28, the President issued an Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." The EO states that it is in the national interest to ensure that the nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the states under the Constitution. The EO directs EPA and ACOE: (1) to review the existing Clean Water Rule (CWR) for consistency with these priorities and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law, and (2) to consider interpreting the term "navigable waters," in a manner consistent with the Scalia opinion in Rapanos v. U.S.

The agencies intend to follow an expeditious, two-step process that will provide certainty across the country: (1) an initial rulemaking to rescind the 2015 rule and reinstate the regulatory approach that, except for a brief two-month period prior to the Sixth Circuit Court of Appeals' stay of the 2015 rule, has been the regulation in place since 1986, and thus maintains the status quo, and (2) a second rulemaking to revise the definition of waters of the U.S. consistent with direction in the E.O. Justice Scalia's Rapanos opinion indicates Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

OW plans to initiate tribal consultation as early as this week. The tribal consultation will focus solely on the rulemaking to revise the definition of WOUS consistent with direction provided in the February 28 EO, not on the withdrawal of the current CWR.

Thank you,

Karen Gude
Tribal Program Coordinator (detail)
U.S. EPA/Office of Water
Phone: (202) 564-0831

To: Brush, Jason[Brush.Jason@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]
Cc: Downing, Donna[Downing.Donna@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]
From: Christensen, Damaris
Sent: Wed 5/3/2017 8:57:03 PM
Subject: RE: Final WOTUS ppt for R9 RTOC ?

Hey there!

I'm copying Mindy so she can weigh in also. Sorry about the kerfuffle at the Region –

1.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5
2.

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3.

Deliberative Process / Ex. 5

Damaris

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Deliberative Process / Ex. 5

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Jason A. Brush
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Tribal Program Coordinator (detail)
U.S. EPA/Office of Water
Phone: (202) 564-0831

To: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; McDavit, Michael W.[Mcdavit.Michael@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]
From: Christensen, Damaris
Sent: Fri 4/28/2017 3:29:33 PM
Subject: Re: LGAC charge

FYI as y'all take a look at this again.

Sent from my iPhone

On Apr 26, 2017, at 3:01 PM, Christensen, Damaris <Christensen.Damaris@epa.gov> wrote:

Hi all,

Generally I think the **Deliberative Process / Ex. 5**

I have questions about updating the language from the federalism letter. In many cases the federalism powerpoint or the preamble **Deliberative Process / Ex. 5**

1. **Deliberative Process / Ex. 5** I couldn't hear all the discussion at today's meeting but we should edit this **Deliberative Process / Ex. 5**

2. **Deliberative Process / Ex. 5**

I also think we should **Deliberative Process / Ex. 5** I'm happy to do that as outreach coordinator, or defer to Mindy.

Daamris

Damaris

From: Eisenberg, Mindy
Sent: Tuesday, April 25, 2017 7:53 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>
Subject: Fwd: Email note to Goodin

FYI. **Deliberative Process / Ex. 5**

Sent from my iPhone
Begin forwarded message:

From: "Bowles, Jack" <Bowles.Jack@epa.gov>
Date: April 25, 2017 at 7:27:02 PM EDT
To: "Goodin, John" <Goodin.John@epa.gov>
Cc: "Eisenberg, Mindy" <Eisenberg.Mindy@epa.gov>, "Downing, Donna" <Downing.Donna@epa.gov>, "Eargle, Frances" <Eargle.Frances@epa.gov>
Subject: FW: Email note to Goodin

Hey John,

The LGAC's Protecting America's Waters Workgroup is meeting on **Wednesday, May 3rd, 4:30-5:30 ET** via teleconference. We would like you to speak to them regarding Waters of the U.S.

E.O. We have also drafted a charge for the committee to respond to WOTUS. Are you or someone else available to speak to the workgroup and field questions?

Also, could y'all please review the Draft LGAC WOTUS Charge and provide us with any comments or revisions you may have. NOTE: The highlighted text is taken directly from the Federalism consultation information. We added a few questions and issues the LGAC might uniquely comment on. Let us know what you think. Thank you.

Best,
Jack

To: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Peck, Gregory[Peck.Gregory@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]
From: Goodin, John
Sent: Thur 4/27/2017 9:32:18 PM
Subject: Fwd: Summary of EPW Hearing: A Review of the Technical, Scientific, and Legal Basis of the WOTUS Rule
Hearing Summary Senate EPW Review of WOTUS 04-26-17.docx
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Campbell, Ann" <Campbell.Ann@epa.gov>
Date: April 27, 2017 at 5:12:48 PM EDT
To: "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>, "Goodin, John" <Goodin.John@epa.gov>
Subject: Fwd: Summary of EPW Hearing: A Review of the Technical, Scientific, and Legal Basis of the WOTUS Rule

Begin forwarded message:

From: "Barbery, Andrea" <Barbery.Andrea@epa.gov>
Date: April 27, 2017 at 5:09:43 PM EDT
To: "Threet, Derek" <Threet.Derek@epa.gov>, "Campbell, Ann" <Campbell.Ann@epa.gov>
Subject: FW: Summary of EPW Hearing: A Review of the Technical, Scientific, and Legal Basis of the WOTUS Rule

Hi, Derek and Ann. Are y'all interested in getting OCIR's hearing summaries? This one, on CWR...

From: Borum, Denis
Sent: Thursday, April 27, 2017 4:45 PM
To: AO-OCIR Everyone <AOOCIR_Everyone@epa.gov>; RCL's <CNRCLsOIntergov_Contacts@epa.gov>
Cc: Peck, Gregory <Peck.Gregory@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>
Subject: Summary of EPW Hearing: A Review of the Technical, Scientific, and Legal Basis of the WOTUS Rule

All –

Please see attached and let me know of any questions. Thank you

Denis

Denis R. Borum
Congressional Liaison Specialist
Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (MC-1301A)
Washington, D.C. 20460
(202) 564-4836 (phone)
(202) 501-1549 (fax)

To: Bowles, Jack[Bowles.Jack@epa.gov]
Cc: Hanson, Andrew[Hanson.Andrew@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Campbell, Ann[Campbell.Ann@epa.gov]
From: Goodin, John
Sent: Thur 4/6/2017 7:20:49 PM
Subject: Urgent: Federalism revised draft letter
UPDATED FEDCON.docx

Jack—in Andrew’s absence today would you give this a quick look?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks!
John

From: Ferguson, Lincoln
Sent: Thursday, April 06, 2017 3:11 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: RE: ATTENTION: FW: WOTUS messaging

Attached is the updated version of the letter. Please let me know of any further edits/changes.

Thanks,
Lincoln

From: Greenwalt, Sarah
Sent: Thursday, April 6, 2017 3:06 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: RE: ATTENTION: FW: WOTUS messaging

Deliberative Process / Ex. 5

Great work, team!

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell:

Ex. 6

Greenwalt.Sarah@epa.gov

From: Neugeboren, Steven
Sent: Thursday, April 6, 2017 2:32 PM

To: Goodin, John <Goodin.John@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: RE: ATTENTION: FW: WOTUS messaging

Sarah – John and I spoke about

Deliberative Process / Ex. 5

Deliberative Process / ACP Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Goodin, John
Sent: Thursday, April 06, 2017 1:57 PM
To: Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: ATTENTION: FW: WOTUS messaging

Steve—maybe the following accomplishes the intent of Sarah’s edits?

Deliberative Process / ACP Ex. 5

OK if you reply to all, Steve.
Thanks
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From: Greenwalt, Sarah
Sent: Thursday, April 06, 2017 1:32 PM
To: Goodin, John <Goodin.John@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell:

Ex. 6

Greenwalt.Sarah@epa.gov

From: Goodin, John

Sent: Thursday, April 6, 2017 12:17 PM

To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: WOTUS messaging

Thanks, Lincoln—attached is a clean copy.

Sarah—would you have a time for a brief call/meeting to talk next steps?

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From: Ferguson, Lincoln

Sent: Thursday, April 06, 2017 8:30 AM

To: Goodin, John <Goodin.John@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: WOTUS messaging

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Cc: Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>

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Thanks
John

Deliberative Process / Ex. 5

From: Greenwalt, Sarah
Sent: Wednesday, April 05, 2017 2:38 PM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Re: WOTUS messaging

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Sent from my iPhone

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Subject: RE: WOTUS messaging

John will circulate once that has been added in.

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: Ex. 6
Greenwalt.Sarah@epa.gov

From: Ferguson, Lincoln
Sent: Wednesday, April 5, 2017 11:41 AM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: WOTUS messaging

Happy to help. Can you send over the letter once you've inserted Deliberative Process / Ex. 5 and then we will add his voice from the draft?

Sent from my iPhone
On Apr 5, 2017, at 11:33 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

JP and Lincoln,

Deliberative Process / Ex. 5

Thanks!

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell:

Ex. 6

Greenwalt.Sarah@epa.gov

To: Goodin, John[Goodin.John@epa.gov]; Shapiro, Mike[Shapiro.Mike@epa.gov]
Cc: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]; Wendelowski, Karyn[wendelowski.karyn@epa.gov]
From: Neugeboren, Steven
Sent: Thur 4/6/2017 7:16:52 PM
Subject: RE: ATTENTION: FW: WOTUS messaging
[SN Comments on UPDATED FEDCON.docx](#)

Deliberative Process / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
202-564-5488

From: Ferguson, Lincoln
Sent: Thursday, April 06, 2017 3:11 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
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Subject: RE: ATTENTION: FW: WOTUS messaging

Deliberative Process / Ex. 5

Great work, team!

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell:

Ex. 6

Greenwalt.Sarah@epa.gov

From: Neugeboren, Steven
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To: Goodin, John <Goodin.John@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: RE: ATTENTION: FW: WOTUS messaging

Sarah – John and I spoke about **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Steven Neugeboren
Associate General Counsel
Water Law Office
Environmental Protection Agency
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From: Goodin, John
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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5 Doesn't have to be this exacty, but maybe something like this:

Deliberative Process / Ex. 5

Sarah A. Greenwalt
Senior Advisor to the Administrator
ED_001271_00136802-00002

WOTUS_Rule_FOIAAs_0029093

for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell:

Ex. 6

Greenwalt.Sarah@epa.gov

From: Goodin, John

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To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>;

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Subject: RE: WOTUS messaging

Thanks, Lincoln—attached is a clean copy.

Sarah—would you have a time for a brief call/meeting to talk next steps?

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From: Ferguson, Lincoln

Sent: Thursday, April 06, 2017 8:30 AM

To: Goodin, John <Goodin.John@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>;

Neugeboren, Steven <Neugeboren.Steven@epa.gov>

Subject: RE: WOTUS messaging

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Let me know if there is anything else I can do.

Thanks,

LF

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To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>

Cc: Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>;

Neugeboren, Steven <Neugeboren.Steven@epa.gov>

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Thanks

John

Deliberative Process / Ex. 5

From: Greenwalt, Sarah

ED_001271_00136802-00003

WOTUS_Rule_FOIAAs_0029094

Sent: Wednesday, April 05, 2017 2:38 PM

To: Goodin, John <Goodin.John@epa.gov>

Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>

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That's great, thanks!

Sent from my iPhone

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Thanks

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Cc: Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>

Subject: RE: WOTUS messaging

John will circulate once that has been added in.

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell: **Ex. 6**

Greenwalt.Sarah@epa.gov

From: Ferguson, Lincoln

Sent: Wednesday, April 5, 2017 11:41 AM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>

Subject: Re: WOTUS messaging

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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 }

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JP and Lincoln,

Deliberative Process / Ex. 5

Thanks!

Sarah A. Greenwalt

Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell:

Ex. 6

Greenwalt.Sarah@epa.gov

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Neugeboren, Steven[Neugeboren.Steven@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Shapiro, Mike[Shapiro.Mike@epa.gov]
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From: Ferguson, Lincoln
Sent: Thur 4/6/2017 7:11:26 PM
Subject: RE: ATTENTION: FW: WOTUS messaging
UPDATED FEDCON.docx

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Lincoln

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Deliberative Process / Ex. 5

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Sarah A. Greenwalt
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for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
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Ex. 6

Greenwalt.Sarah@epa.gov

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Sarah – John and I spoke about

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Senior Advisor to the Administrator
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U.S. Environmental Protection Agency
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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: **Ex. 6**
Greenwalt.Sarah@epa.gov

To: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Christensen, Damaris[Christensen.Damaris@epa.gov]
From: Goodin, John
Sent: Thur 4/6/2017 2:30:24 PM
Subject: ACTION: FW: WOTUS messaging
DRAFT FedConInvite2WOTUS2.docx

Would you accept all edits, fix the “cc” to be lowercase, and save a clean version as revDRAFT.....
Thanks!

From: Ferguson, Lincoln
Sent: Thursday, April 06, 2017 8:30 AM
To: Goodin, John <Goodin.John@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
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Deliberative Process / Ex. 5

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Sent: Wednesday, April 05, 2017 2:38 PM
To: Goodin, John <Goodin.John@epa.gov>
Cc: Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>
Subject: Re: WOTUS messaging

That's great, thanks!
Sent from my iPhone
On Apr 5, 2017, at 1:00 PM, Goodin, John <Goodin.John@epa.gov> wrote:

Thanks, Sarah. We'll send the revised draft forward to Lincoln et al. NLT COB. We're quickly circulating a revised version to staff at OGC, OCIR, and Army for input, as discussed this morning.

Thanks
John

From: Greenwalt, Sarah
Sent: Wednesday, April 05, 2017 12:23 PM
To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: RE: WOTUS messaging

John will circulate once that has been added in.

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: **Ex. 6**
Greenwalt.Sarah@epa.gov

From: Ferguson, Lincoln
Sent: Wednesday, April 5, 2017 11:41 AM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>
Subject: Re: WOTUS messaging

Happy to help.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Sent from my iPhone

On Apr 5, 2017, at 11:33 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

JP and Lincoln,

Deliberative Process / Ex. 5

Thanks!

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | Cell: **Ex. 6**
Greenwalt.Sarah@epa.gov

To: Hewitt, Julie[Hewitt.Julie@epa.gov]; Doley, Todd[Doley.Todd@epa.gov]; McGartland, Al[McGartland.Al@epa.gov]; Massey, Matt[Massey.Matt@epa.gov]; Guignet, Dennis[Guignet.Dennis@epa.gov]; Scodari, Paul F CIV USARMY CEIWR (US)[Paul.F.Scodari@usace.army.mil]; Thomas Hughes[thomas.e.hughes1.civ@mail.mil]; Jensen, Stacey M CIV USARMY HQDA (US)[Stacey.M.Jensen@usace.army.mil]; Robert.W.Brumbaugh@usace.army.mil[Robert.W.Brumbaugh@usace.army.mil]
Cc: Keating, Jim[Keating.Jim@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Nickerson, William[Nickerson.William@epa.gov]
From: Kwok, Rose
Sent: Fri 3/31/2017 5:40:48 PM
Subject: RE: WOTUS economics

Hi All (Bob is included in the Reply All),

Here is the Econ portion of the Sharepoint site:

Nonresponsive Internal URL/ Ex. 6

I've also uploaded the two documents there.

Bob and Paul, I can add you as well, but you'll need to set up a passworded Microsoft 365 account for that (Cindy and Tom I know have successfully down this...I believe Stacey as well and can give you hints).

The NPDES data/results are here:

Nonresponsive Internal URL/ Ex. 6

I have not yet added the more recent results but will do so in a new folder within this folder. I will also add the results of our

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

and will send around the link once I do.

-----Original Appointment-----

From: Hewitt, Julie
Sent: Friday, March 31, 2017 12:49 PM
To: Doley, Todd; McGartland, Al; Massey, Matt; Guignet, Dennis; Scodari, Paul F CIV USARMY CEIWR (US); Thomas Hughes; Kwok, Rose; Jensen, Stacey M CIV USARMY HQDA (US); Robert.W.Brumbaugh@usace.army.mil
Cc: Keating, Jim; Kupchan, Simma; Downing, Donna; Eisenberg, Mindy; Nickerson, William
Subject: WOTUS economics
When: Friday, March 31, 2017 10:00 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).
Where: DCRoomWest6105AAssateague/DC-EPA-West-OST and

Nonresponsive Conference Code/ Ex. 6

Post meeting update:

- You will have contact for everyone who attended if you process this invitation, so you can reply to all (the test will be whether your reply includes Bob Brumbaugh)
- Please review the scheduled and flowchart and send comments (to all on this meeting invitation) by COB, Monday, 4/3

○

Deliberative Process / Ex. 5

○

Agenda:

- **Deliberative Process / Ex. 5**
- If the weekly meeting times don't work for anyone

<< File: ECON Schedule_30Mar2017.xlsx >> << File: CRW Analysis Flowchart V5.pptx >>

To: Kwok, Rose[Kwok.Rose@epa.gov]; Wendelowski, Karyn[wendelowski.karyn@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]
Cc: Bravo, Antonio[Bravo.Antonio@epa.gov]
From: Wehling, Carrie
Sent: Fri 3/3/2017 1:16:55 PM
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Rose – I would suggest

Deliberative Process / ACP Ex. 5

Deliberative Process / ACP Ex. 5

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Kwok, Rose
Sent: Thursday, March 02, 2017 5:29 PM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Bravo, Antonio <Bravo.Antonio@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hi – just spoke to Simma, and added a sentence or two about

Deliberative Process / ACP Ex. 5

From: Kwok, Rose
Sent: Thursday, March 02, 2017 5:17 PM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Bravo, Antonio <Bravo.Antonio@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hi Folks,

I pulled stuff directly from the preamble to the Clean Water Rule, with a few tweaks to make it work for the question (for Question 4). I also pulled from the FAQs on the JD website and the CWR website and the coordination memo and 1989 MOA. They are below for your review. I’m not sure if my answer to 4 is too long and we should shorten it.

OGC – we got a media inquiry from Wired Magazine, and here is my best attempt at a response. I wanted to include you so that you have the opportunity to review.

From: Bravo, Antonio
Sent: Wednesday, March 01, 2017 3:50 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: Fw: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please advise on how to respond to this Press Inquiry:

QUESTION:

1. Id like to know about any technologies—remote sensing, satellite imagery, terrain modeling software, hydrology tools, GIS, and so on— the EPA uses to determine whether a body of water falls under the protection of the Clean Water Act
- Deliberative Process / Ex. 5

2. I understand the Wotus rule hasn't yet taken effect, but I'd like to know how it would change, add to, or alter the technologies and parameters that EPA technicians use to delimit a federally regulated waterway.

Deliberative Process / Ex. 5

3. I would love to talk to (hear from) a software analyst about their workflow on these. **[We will provide a written description instead of an interview.]**

Deliberative Process / Ex. 5

4. Just following up, with some amending to my questions. I just spoke with some folks at the Army Corps who explained to me the technology they use for jurisdictional determination. They mentioned that they (or a regional ACE subsidiary) do most of the JD's, and the EPA steps in for certain types of decisions, called "significant nexus analysis" and "isolated waters." They also mentioned that the EPA occasionally steps in to make decisions on whatever they determine is a "special case."

First, I just want to fact check to make sure that my understanding of the workflow between the ACE and EPA is correct.

Second, I'm interested to learn more about the cases the EPA steps in on. Does the EPA use its own mapping tools to determine the JD, or does it do its analysis using the ACE's data?

Finally, I'm interested to learn what kinds of attributes trigger the EPA to determine to determine a given JD is a "special case" (that is, besides the significant nexus and isolated waters cases mentioned above) and requires them to step in.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Fuld, John
Sent: Wednesday, March 1, 2017 3:40 PM
To: Bravo, Antonio
Subject: FW: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please see inquiry below

From: Lalley, Cara
Sent: Wednesday, March 01, 2017 3:38 PM
To: Fuld, John <Fuld.John@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

I think this is OWOW.

From: Fuld, John
Sent: Wednesday, March 01, 2017 3:27 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Deliberative Process / Ex. 5

From: Fuld, John
Sent: Wednesday, March 01, 2017 3:25 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies



Office of Water

Media Inquiry

Travis Loop

Communications Director-Water

loop.travis@epa.gov

John W. Fuld, Ph.D.

Media Relations Mgr.-Water

fuld.john@epa.gov

DATE: March 1, 2017

OUTLET: WIRED MAGAZINE

REPORTER: Nick Stockton

TOPIC: RE: The Technologies

DEADLINE: Thursday March 2 10 am

PERTINENT INFORMATION:

He's working on a story about the technologies the EPA and US ACOE use to enforce the Clean Water Act and Waters of the US rule.

QUESTION:

1. I'd like to know about any technologies—remote sensing, satellite imagery, terrain modeling software, hydrology tools, GIS, and so on—the EPA uses to determine whether a body of water falls under the protection of the Clean Water Act.
2. I understand the Wotus rule hasn't yet taken effect, but I'd like to know how it would change, add to, or alter the technologies and parameters that EPA technicians use to delimit a federally regulated waterway.
3. I would love to talk to (hear from) a software analyst about their workflow on these.

YOUR PROGRAMS MESSAGE

THEN ANSWER QUESTIONS: DON'T FOR GET LINKS

PROGRAM MESSAGE AND ANSWERS:

John W. Fuld, Ph.D.

Media Relations Manager-Water

Environmental Protection Agency

1200 Constitution Ave

Washington DC 20460

Office: 202-564-8847

Cell: Personal Phone / Ex. 6

Fuld.john@epa.gov

To: Wendelowski, Karyn[wendelowski.karyn@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
Cc: Bravo, Antonio[Bravo.Antonio@epa.gov]
From: Kwok, Rose
Sent: Thur 3/2/2017 10:28:53 PM
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hi – just spoke to Simma, and added a sentence or two about **Deliberative Process / ACP Ex. 5**

From: Kwok, Rose
Sent: Thursday, March 02, 2017 5:17 PM
To: Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Cc: Bravo, Antonio <Bravo.Antonio@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hi Folks,

I pulled stuff directly from the preamble to the Clean Water Rule, with a few tweaks to make it work for the question (for Question 4). I also pulled from the FAQs on the JD website and the CWR website and the coordination memo and 1989 MOA. They are below for your review. I'm not sure if my answer to 4 is too long and we should shorten it.

OGC – we got a media inquiry from Wired Magazine, and here is my best attempt at a response. I wanted to include you so that you have the opportunity to review.

From: Bravo, Antonio
Sent: Wednesday, March 01, 2017 3:50 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: Fw: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please advise on how to respond to this Press Inquiry:

QUESTION:

1. I'd like to know about any technologies—remote sensing, satellite imagery, terrain modeling software, hydrology tools, GIS, and so on— the EPA uses to determine whether a body of water falls under the protection of the Clean Water Act.

Deliberative Process / Ex. 5

2. I understand the Wotus rule hasn't yet taken effect, but I'd like to know how it would change, add to, or alter the technologies and parameters that EPA technicians use to delimit a federally regulated waterway.

Deliberative Process / Ex. 5

3. I would love to talk to (hear from) a software analyst about their workflow on these. [We will provide a written description instead of an interview.]

Deliberative Process / Ex. 5

4. Just following up, with some amending to my questions. I just spoke with some folks at the Army Corps who explained to me the technology they use for jurisdictional determination. They mentioned that they (or a regional ACE subsidiary) do most of the JD's, and the EPA steps in for certain types of decisions, called "significant nexus analysis" and "isolated waters." They also mentioned that the EPA occasionally steps in to make decisions on whatever they determine is a "special case."

First, I just want to fact check to make sure that my understanding of the workflow between the ACE and EPA is correct.

Second, I'm interested to learn more about the cases the EPA steps in on. Does the EPA use its own mapping tools to determine the JD, or does it do its analysis using the ACE's data?

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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Fuld, John
Sent: Wednesday, March 1, 2017 3:40 PM
To: Bravo, Antonio
Subject: FW: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please see inquiry below

From: Lalley, Cara
Sent: Wednesday, March 01, 2017 3:38 PM
To: Fuld, John <Fuld.John@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

I think this is OWOW.

From: Fuld, John
Sent: Wednesday, March 01, 2017 3:27 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Deliberative Process / Ex. 5

From: Fuld, John
Sent: Wednesday, March 01, 2017 3:25 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies



Office of Water Media Inquiry

Travis Loop
Communications Director-Water
loop.travis@epa.gov

John W. Fuld, Ph.D.
Media Relations Mgr.-Water
fuld.john@epa.gov

DATE: March 1, 2017
OUTLET: WIRED MAGAZINE
REPORTER: Nick Stockton
TOPIC: RE: The Technologies
DEADLINE: Thursday March 2 10 am

PERTINENT INFORMATION:

He's working on a story about the technologies the EPA and US ACOE use to enforce the Clean Water Act and Waters of the US rule.

QUESTION:

1. I'd like to know about any technologies—remote sensing, satellite imagery, terrain modeling software, hydrology tools, GIS, and so on— the EPA uses to determine whether a body of water falls under the protection of the Clean Water Act.
2. I understand the Wotus rule hasn't yet taken effect, but I'd like to know how it would change, add to, or alter the technologies and parameters that EPA technicians use to delimit a federally regulated waterway.
3. I would love to talk to (hear from) a software analyst about their workflow on these.

YOUR PROGRAMS MESSAGE

THEN ANSWER QUESTIONS: DON'T FOR GET LINKS

PROGRAM MESSAGE AND ANSWERS:

John W. Fuld, Ph.D.
Media Relations Manager-Water
Environmental Protection Agency
1200 Constitution Ave
Washington DC 20460
Office: 202-564-8847
Cell Personal Phone / Ex. 6
Fuld.john@epa.gov

To: Wendelowski, Karyn[wendelowski.karyn@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]; Wehling, Carrie[Wehling.Carrie@epa.gov]
Cc: Bravo, Antonio[Bravo.Antonio@epa.gov]
From: Kwok, Rose
Sent: Thur 3/2/2017 10:17:18 PM
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hi Folks,

I pulled stuff directly from the preamble to the Clean Water Rule, with a few tweaks to make it work for the question (for Question 4). I also pulled from the FAQs on the JD website and the CWR website and the coordination memo and 1989 MOA. They are below for your review. I'm not sure if my answer to 4 is too long and we should shorten it.

OGC – we got a media inquiry from Wired Magazine, and here is my best attempt at a response. I wanted to include you so that you have the opportunity to review.

From: Bravo, Antonio
Sent: Wednesday, March 01, 2017 3:50 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: Fw: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please advise on how to respond to this Press Inquiry:

QUESTION:

1. I'd like to know about any technologies—remote sensing, satellite imagery, terrain modeling software, hydrology tools, GIS, and so on— the EPA uses to determine whether a body of water falls under the protection of the Clean Water Act.

Deliberative Process / Ex. 5

2. I understand the Wotus rule hasn't yet taken effect, but I'd like to know how it would change, add to, or alter the technologies and parameters that EPA technicians use to delimit a federally regulated waterway.

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

From: Fuld, John
Sent: Wednesday, March 1, 2017 3:40 PM

ED_001271_00138610-00002

WOTUS_Rule_FOIAAs_0029113

To: Bravo, Antonio
Subject: FW: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please see inquiry below

From: Lalley, Cara
Sent: Wednesday, March 01, 2017 3:38 PM
To: Fuld, John <Fuld.John@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

I think this is OWOW.

From: Fuld, John
Sent: Wednesday, March 01, 2017 3:27 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Deliberative Process / Ex. 5

From: Fuld, John
Sent: Wednesday, March 01, 2017 3:25 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies



Office of Water

Media Inquiry

Travis Loop
Communications Director-Water
loop.travis@epa.gov

John W. Fuld, Ph.D.
Media Relations Mgr.-Water
fuld.john@epa.gov

DATE: March 1, 2017
OUTLET: WIRED MAGAZINE
REPORTER: Nick Stockton
TOPIC: RE: The Technologies
DEADLINE: Thursday March 2 10 am

PERTINENT INFORMATION:

He's working on a story about the technologies the EPA and US ACOE use to enforce the Clean Water Act and Waters of the US rule.

QUESTION:

1. I'd like to know about any technologies—remote sensing, satellite imagery, terrain modeling software, hydrology

tools, GIS, and so on— the EPA uses to determine whether a body of water falls under the protection of the Clean Water Act.

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3. I would love to talk to (hear from) a software analyst about their workflow on these.

YOUR PROGRAMS MESSAGE

THEN ANSWER QUESTIONS: DON'T FOR GET LINKS

PROGRAM MESSAGE AND ANSWERS:

John W. Fuld, Ph.D.

Media Relations Manager-Water
Environmental Protection Agency
1200 Constitution Ave
Washington DC 20460
Office: 202-564-8847
Cell: Personal Phone / Ex. 6
Fuld.john@epa.gov

To: Bravo, Antonio[Bravo.Antonio@epa.gov]
Cc: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]
From: Kwok, Rose
Sent: Thur 3/2/2017 8:50:00 PM
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Antonio – I’m going to assume that this new question replaces/modifies Question 1.

From: Bravo, Antonio
Sent: Thursday, March 02, 2017 3:46 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

John just got an addition to the initial question:

Other Q:

Just following up, with some amending to my questions. I just spoke with some folks at the Army Corps who explained to me the technology they use for jurisdictional determination. They mentioned that they (or a regional ACE subsidiary) do most of the JD's, and the EPA steps in for certain types of decisions, called "significant nexus analysis" and "isolated waters." They also mentioned that the EPA occasionally steps in to make decisions on whatever they determine is a "special case."

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From: Kwok, Rose
Sent: Thursday, March 02, 2017 12:50 PM
To: Bravo, Antonio <Bravo.Antonio@epa.gov>
Subject: Re: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

I literally just remembered that I hadn't sent something. I'll pull together something
Sent from my iPhone
On Mar 2, 2017, at 12:47 PM, Bravo, Antonio <Bravo.Antonio@epa.gov> wrote:

Sorry for the nudge.....

From: Fuld, John
Sent: Thursday, March 02, 2017 12:47 PM
To: Bravo, Antonio <Bravo.Antonio@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hey hey ...how are we doing on this one. OPA ping me

From: Fuld, John
Sent: Thursday, March 02, 2017 10:28 AM
To: Bravo, Antonio <Bravo.Antonio@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

How is this going?

From: Bravo, Antonio
Sent: Thursday, March 02, 2017 8:41 AM
To: Fuld, John <Fuld.John@epa.gov>

Subject: FW: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Just FYIwe're working this.....

From: Bravo, Antonio

Sent: Wednesday, March 01, 2017 3:55 PM

To: Kwok, Rose <Kwok.Rose@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>

Subject: Re: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Thanks for taking a stab at this. Much appreciated!!!

From: Kwok, Rose

Sent: Wednesday, March 1, 2017 3:53:33 PM

To: Bravo, Antonio; Eisenberg, Mindy; Downing, Donna

Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hi Antonio,

There is stuff that we can pull from **Deliberative Process / Ex. 5** for Question 1. For Question 2, I think the answer is that, **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

For 3 –

Deliberative Process / Ex. 5

I will take a stab at sending you something. My afternoon is pretty full, but I can send you something in the morning if that is okay.

From: Bravo, Antonio

Sent: Wednesday, March 01, 2017 3:50 PM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>

Subject: Fw: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please advise on how to respond to this Press Inquiry:

QUESTION:

1. I'd like to know about any technologies—remote sensing, satellite imagery, terrain modeling software, hydrology tools, GIS, and so on—the EPA uses to determine whether a body of water falls under the protection of the Clean Water Act.
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2. I would love to talk to (hear from) a software analyst about their workflow on these. [We will provide a written description instead of an interview.]

From: Fuld, John

Sent: Wednesday, March 1, 2017 3:40 PM

To: Bravo, Antonio

Subject: FW: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please see inquiry below

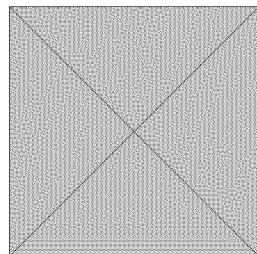
From: Lalley, Cara
Sent: Wednesday, March 01, 2017 3:38 PM
To: Fuld, John <Fuld.John@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

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From: Fuld, John
Sent: Wednesday, March 01, 2017 3:27 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Deliberative Process / Ex. 5

From: Fuld, John
Sent: Wednesday, March 01, 2017 3:25 PM
To: Lalley, Cara <Lalley.Cara@epa.gov>
Subject: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies



Office of Water Media Inquiry

Travis Loop
Communications Director-Water
loop.travis@epa.gov

John W. Fuld, Ph.D.
Media Relations Mgr.-Water
fuld.john@epa.gov

DATE: March 1, 2017
OUTLET: WIRED MAGAZINE
REPORTER: Nick Stockton
TOPIC: RE: The Technologies
DEADLINE: Thursday March 2 10 am

PERTINENT INFORMATION:

He's working on a story about the technologies the EPA and US ACOE use to enforce the Clean Water Act and Waters of the US rule.

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3. I would love to talk to (hear from) a software analyst about their workflow on these.

**YOUR PROGRAMS MESSAGE
THEN ANSWER QUESTIONS: DON'T FOR GET LINKS**

PROGRAM MESSAGE AND ANSWERS:

John W. Fuld, Ph.D.

Media Relations Manager-Water
Environmental Protection Agency

1200 Constitution Ave
Washington DC 20460

Office: 202-564-8847

Cell: Personal Phone / Ex. 6

Fuld.john@epa.gov

To: Bravo, Antonio[Bravo.Antonio@epa.gov]
Cc: Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]
From: Kwok, Rose
Sent: Thur 3/2/2017 8:46:48 PM
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Thanks, working on my draft responses now, so I'm adding it to the list.

From: Bravo, Antonio
Sent: Thursday, March 02, 2017 3:46 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

John just got an addition to the initial question:

Other Q:

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From: Kwok, Rose
Sent: Thursday, March 02, 2017 12:50 PM
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Subject: Re: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

I literally just remembered that I hadn't sent something. I'll pull together something
Sent from my iPhone
On Mar 2, 2017, at 12:47 PM, Bravo, Antonio <Bravo.Antonio@epa.gov> wrote:

Sorry for the nudge.....

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From: Fuld, John
Sent: Thursday, March 02, 2017 10:28 AM
To: Bravo, Antonio <Bravo.Antonio@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

How is this going?

From: Bravo, Antonio
Sent: Thursday, March 02, 2017 8:41 AM
To: Fuld, John <Fuld.John@epa.gov>

Subject: FW: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Just FYIwe're working this.....

From: Bravo, Antonio

Sent: Wednesday, March 01, 2017 3:55 PM

To: Kwok, Rose <Kwok.Rose@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>

Subject: Re: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Thanks for taking a stab at this. Much appreciated!!!

From: Kwok, Rose

Sent: Wednesday, March 1, 2017 3:53:33 PM

To: Bravo, Antonio; Eisenberg, Mindy; Downing, Donna

Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Hi Antonio,

There is stuff that we can pull [Deliberative Process / Ex. 5] for Question 1. For Question 2, I think the answer is that [Deliberative Process / Ex. 5]

[Deliberative Process / Ex. 5] For 3 – [Deliberative Process / Ex. 5]

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Subject: Fw: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

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From: Fuld, John

Sent: Wednesday, March 1, 2017 3:40 PM

To: Bravo, Antonio

Subject: FW: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

Please see inquiry below

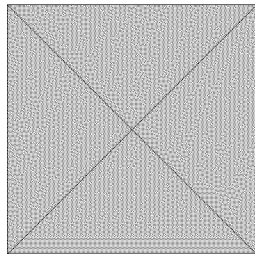
From: Lalley, Cara
Sent: Wednesday, March 01, 2017 3:38 PM
To: Fuld, John <Fuld.John@epa.gov>
Subject: RE: MEDIA INQUIRY WIRED MAGAZINE RE: The Technologies

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Deliberative Process / Ex. 5

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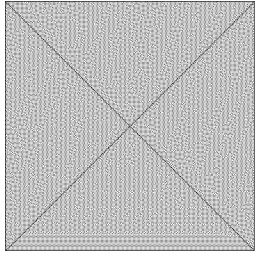
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Washington DC 20460

Office: 202-564-8847

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Fuld.john@epa.gov

To: Wall, Tom[Wall.Tom@epa.gov]; Bonanno, Gale[Bonanno.Gale@epa.gov]; Zobrist, Marcus[Zobrist.Marcus@epa.gov]; Kaiser, Russell[Kaiser.Russell@epa.gov]; Weinstock, Larry[Weinstock.Larry@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Salata, Joseph[Salata.Joseph@epa.gov]; Tedesco, Mark[Tedesco.Mark@epa.gov]; O'Neill, Leah[Oneill.Leah@epa.gov]; Pryor, Margherita[Pryor.Margherita@epa.gov]; Cote, Mel[Cote.Mel@epa.gov]; Feuerbach, MaryJo[feuerbach.maryjo@epa.gov]; Derby, Jennifer[Derby.Jennifer@epa.gov]; Blackburn, Steven[Blackburn.Steven@epa.gov]; Jones, Curry[jones.curry@epa.gov]; Rauscher, Leslie[Rauscher.Leslie@epa.gov]; Kubo, Teresa[Kubo.Teresa@epa.gov]; Ziegler, Sam[Ziegler.Sam@epa.gov]; Woo, Nancy[Woo.Nancy@epa.gov]; Castner, Chris[Castner.Chris@epa.gov]; Adams, Angela[Adams.Angela@epa.gov]; Murchie, Peter[Murchie.Peter@epa.gov]; Biaggi, Taylor[biaggi.taylor@epa.gov]; Harmon, Russell[Harmon.Russell@epa.gov]; Soscia, Marylou[Soscia.Marylou@epa.gov]; Barber, Anthony[Barber.Anthony@epa.gov]
Cc: Brown, Robert[Brown.Robert@epa.gov]; Chancey, Barbara[Chancey.Barbara@epa.gov]; Evans, David[Evans.David@epa.gov]; Goodin, John[Goodin.John@epa.gov]
From: Moore, Kristie
Sent: Tue 1/31/2017 2:37:41 PM
Subject: FYI: Budget update
[scott-pruitt-qfr-responses-01.18.2017.pdf](#)

Greg attached Pruitt's responses to QFRs from his confirmation hearing. I skimmed through the questions and flagged items that may interest OWOW.

Also see Greg's budget summary below my e-mail.

Kristie

Booker 21-30, pages 6-10: Reducing Phosphorus Pollution in Illinois River Watershed

Cardin 16-26 and 90, pages 16-19 and 36: Chesapeake Bay TMDL

Cardin 31, page 21: Climate change and algal blooms

Cardin 43, page 23: 2010 consent order with Making Money Having Fund coal combustion waste mine fill operator

Cardin 47-52, pages 24-27:WOUS

Cardin 53-54, page 27: water pollution in OK

Cardin 55, page 27: Stream Buffer Rule

Carper 73, page 62: Reducing NPS pollution

Carper 74, pages 62-63: WOUS

Carper 77, page 64: Funding for TMDL Program

Carper 97-98, pages 71-72: MTM

Carper 146, page 86: Federal jurisdiction over wetlands

Gillibrand 29-30, pages 97-98: LIS disposal site

Gillibrand 31-32, page 98: LIS Office and Geo. Program

Markey 22, page 120: Protecting our oceans

Merkley 26-27, page 149: WOUS

Merkley 35-36, page 151: Tribal rights include 401 certifications and CWA

Merkley 54, page 157: Columbia River/WIIN Act

Sanders 26-28, pages 166-168: Lake Champlain and VT TMDL

Sanders 51-52, page 176: WOUS

Sanders 95, page 185: Lake Champlain and Green Infrastructure

Sullivan 1-2, pages 195-196: Alaska's seafood industry and clean water

Sullivan 4, page 196: 404 veto

Whitehouse 1-3, page 197: NEPs CRE

Whitehouse 4, page 197: Marine Debris

Whitehouse 6-8, page 198-199: Ocean acidification

Whitehouse 9, page 199: Protecting shellfish

Whitehouse 58-60, pages 215-216: WOUS and 404

Whitehouse 72-73, page 219-220: Improving WQ

Kristie M. Moore

Office of Wetlands Oceans and Watersheds

U.S. Environmental Protection Agency

EPA West

1200 Pennsylvania Ave., NW

MC-4501 T

Washington, DC, 20460

office: (202) 566-1616

fax: (202) 566-1544

From: Spraul, Greg

Sent: Monday, January 30, 2017 8:49 AM

To: OW-Resource Management Staff <OWResource_Management_Staff@epa.gov>; OW Budget Officers <OW_Budget_Officers@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Best-Wong, Benita <Best-Wong.Benita@epa.gov>

Cc: Campbell, Ann <Campbell.Ann@epa.gov>; Orvin, Chris <Orvin.Chris@epa.gov>; Kaiser, Sven-Erik <Kaiser.Sven-Erik@epa.gov>; Peck, Gregory <Peck.Gregory@epa.gov>; Gude, Karen <Gude.Karen@epa.gov>; Balasa, Kate <balasa.kate@epa.gov>

Subject: Budget update

Pruitt reveals his views in responses to questions for the record

It might be worth your time to search for relevant key words for your water program areas in the 242 pages of responses to questions from Senate EPW members attached. The following water related topics were covered: New WIIN/WRDA authorities, SRFs, Integrated Planning, Green Infrastructure, TMDLs, water quality standards, 106 grants, monitoring and assessment, PFOA,

NPDES permit backlog, CWSRF formula, making CAFO data being made public, Columbia River, Lake Champlain, State Nutrient Framework, Tax-exempt bonds, Lead.

Infrastructure likely towards the bottom of the congressional GOP to-do list

South Dakota Sen. John Thune, chairman of the GOP conference, said at the party's policy retreat in Philadelphia last week it's too early to say when or even "if" Republicans will tackle an infrastructure bill this year. He added that "obviously, it'd have to be funded."

The GOP has "a very focused agenda of things that we want to get done in the next 200 days," Thune told reporters. "And how infrastructure plays into that, we're not sure yet. It could hitch a ride perhaps on some tax reform bill."

Trump may prefer "fix-it-first" approach to infrastructure

The president suggested during his remarks to Republicans in Philadelphia that he'd prefer the type of "fix-it-first" approach to prioritizing infrastructure spending that Obama once championed.

"We will build new roads and highways and tunnels and airports and railways across the nation," the president told GOP lawmakers. "We will fix our existing product before we build anything brand new, however."

Trump's advisers have backed the idea of paying for an infrastructure plan with a one-time tax break for corporations bringing overseas profits into the U.S., an idea Democrats also support despite some wariness among Republicans. But Schumer told reporters this week that a repatriation holiday, as it's known, is "not going to be close to enough to funding what we need, even if it were included."

The Democrats water infrastructure plan

The 11 page "[A Blueprint to Rebuild America's Infrastructure](#)" sites \$655 billion in needs and calls for 110 billion to repair water and sewer. Here is the relevant water paragraph from the plan:

"We will make major investments in the Clean Water and the Drinking Water state revolving funds, and USDA water programs, to address the growing backlog of water and sewer projects. We will also give States new flexibility to provide communities with more grants rather than loans. This will unlock thousands of new water and sewer infrastructure projects without burdening local ratepayers. In addition, we propose decreasing the local matching funds required of states and local governments who simply cannot afford to take on more debt. Finally, we will increase funding for the Water Infrastructure Finance and Innovation Act program that provides federal loans to support large-scale water infrastructure projects with national and regional significance."

All of these infrastructure plans will mean nothing unless agreement can be reached on how to pay for it.

The President signs a memo on American Iron and Steel

The president asked the Commerce Department to write a plan for using U.S. steel "to the

maximum extent possible.” See the Memo [here](#).

House T&I Infrastructure hearing Feb. 1

The House Transportation and Infrastructure Committee will hold its first hearing of the 115th Congress on the "challenges facing our Nation's infrastructure and a vision for building a 21st century infrastructure for America" on Wednesday, Feb. 1, at 10 a.m. in 2167 Rayburn.

Witnesses: Frederick Smith, CEO of FedEx Corp.; David MacLennan, CEO of Cargill Inc.; Ludwig Willisch, CEO of BMW of North America; Mary Andringa, Vermeer Corp. chairwoman; and Richard Trumka, president of the AFL-CIO.

Pruitt confirmation vote in Committee this week

Senate Environment and Public Works votes Wednesday on the nomination of Scott Pruitt to head the Environmental Protection Agency (10:45 a.m., 406 Dirksen).

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/18/2017 8:46:56 PM
To: Kwok, Rose [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3d2987ba8f246a5a9e37773201fd180-Kwok, Rose]
CC: Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]; Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]
Subject: Re: Website - Add Presentations

Let's raise during the comms mtg tomorrow.

Sent from my iPhone

On May 18, 2017, at 4:20 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

I think

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Bennett, Brittany
Sent: Thursday, May 18, 2017 3:58 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>
Cc: Kwok, Rose <Kwok.Rose@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Website - Add Presentations

Hey All – I'll

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Christensen, Damaris
Sent: Monday, May 15, 2017 10:34 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Wehling, Carrie <Wehling.Carrie@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>
Subject: Re: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Damaris

Sent from my iPhone

On May 15, 2017, at 7:58 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

Would it make sense to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Kwok, Rose

Sent: Monday, May 15, 2017 7:56 PM

To: Livingston, Peggy <Livingston.Peggy@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Livingston, Peggy

Sent: Monday, May 15, 2017 5:17 PM

To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Hi. I gather that it's OK for Region 8 to provide copies of the letter, the press release, and the federalism powerpoint to state environmental directors and state agriculture directors. However, if it's not, would you please let me know by, say, mid-week? I've been getting calls from our RA's office. Thank you.

Peggy Livingston
Senior Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6858 (phone)
(303) 312-7202 (fax)

From: Livingston, Peggy

Sent: Friday, May 12, 2017 1:13 PM

To: Wehling, Carrie <Wehling.Carrie@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Thank you. I just wanted to confirm that it is public. It looks public to me, but I wanted to be sure that was the case.

Peggy Livingston
Senior Enforcement Attorney

Legal Enforcement Program
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6858 (phone)
(303) 312-7202 (fax)

From: Wehling, Carrie
Sent: Friday, May 12, 2017 12:12 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>
Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Deliberative Process / Ex. 5

Carrie

Caroline (Carrie) Wehling
Assistant General Counsel
Water Law Office
U.S. Environmental Protection Agency
Washington DC 20004
202-564-5492
wehling.carrie@epa.gov

From: Christensen, Damaris
Sent: Friday, May 12, 2017 1:37 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Deliberative Process / Ex. 5

Damaris

From: Kwok, Rose
Sent: Friday, May 12, 2017 1:19 PM
To: Livingston, Peggy <Livingston.Peggy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>
Subject: Re: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Hi Peggy,

For 1.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

2.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Rose Kwok
U.S. Environmental Protection Agency
Wetlands Division
kwok.rose@epa.gov
202-566-0657, 202-566-1375 (fax)

From: Livingston, Peggy

Sent: Friday, May 12, 2017 1:10:02 PM

To: Kwok, Rose; Christensen, Damaris; Downing, Donna; Wendelowski, Karyn; Wehling, Carrie

Subject: RE: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Deliberative Process / Ex. 5

Thank you very much.

Peggy Livingston
Senior Enforcement Attorney

Legal Enforcement Program
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
(303) 312-6858 (phone)
(303) 312-7202 (fax)

From: Kwok, Rose

Sent: Tuesday, May 09, 2017 3:40 PM

To: OW-OWOW-WD <OWOWOWWD@epa.gov>; EPA Wetlands Managers <EPA_Wetlands_Managers@epa.gov>; Jensen, Stacey M CIV USARMY HQDA (US) <Stacey.M.Jensen@usace.army.mil>; Sachs, Erica <Sachs.Erica@epa.gov>; Williams, Ann <Williams.Ann@epa.gov>; Montella, Daniel <Montella.Daniel@epa.gov>; Lapp, Jeffrey <lapp.jeffrey@epa.gov>; Shamet, Stefania <Shamet.Stefania@epa.gov>; Somerville, Eric <Somerville.Eric@epa.gov>; Able, Tony <Able.Tony@epa.gov>; Melgin, Wendy <melgin.wendy@epa.gov>; Schaller, Andrea <schaller.andrea@epa.gov>; Fontenot, Alison <Fontenot.Alison@epa.gov>; Schafer, Jeannette <schafer.jeannette@epa.gov>; McCarthy, Julia <McCarthy.Julia@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Leidy, Robert <Leidy.Robert@epa.gov>; Dean, Heather <Dean.Heather@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Cherry, Andrew <Cherry.Andrew@epa.gov>; Stokely, Peter <Stokely.Peter@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Flannery-Keith, Erin <Flannery-Keith.Erin@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>; Auerbach, Daniel <Auerbach.Daniel@epa.gov>; Keating, Jim <Keating.Jim@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; McDavit, Michael W. <Mcdavit.Michael@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Ludwig-Monty, Sarah <ludwig-monty.sarah@epa.gov>; Balasa, Kate <balasa.kate@epa.gov>; Palomaki, Ashley <Palomaki.Ashley@epa.gov>; Cantilli, Robert <Cantilli.Robert@epa.gov>; Martinez, Maria <Martinez.Maria@epa.gov>; Cindy Barger <cindy.s.barger.civ@mail.mil>; Morgan, James <Morgan.James@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Alexander, Laurie <Alexander.Laurie@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>

Cc: Peterson, Carol <Peterson.Carol@epa.gov>; Speir, Jeffrey <speir.jeffrey@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Horchem, Brad <horchem.brad@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>; Gude, Karen <Gude.Karen@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; Kovac, Steve <Kovac.Steve@epa.gov>

Subject: FW: EPA and U.S. Army Solicit State Input on Redefining "Waters of the U.S."

Hi Folks,

FYI, letters signed by the Administrator and Mr. Douglas Lamont (Senior Official Performing the Duties of the Assistant Secretary of the Army, Civil Works) are being sent out today to all of the governors (the last we heard from OCIR earlier this afternoon, they were still transmitting the letters via email and would be mailing a hard copy soon) regarding the forthcoming WOTUS rulemakings. I've attached a sample of the letters that were sent out, and the press release is below. We have notified the Administrator's office of a typo in the press release Deliberative Process / Ex. 5 but wanted to be sure you had these materials as an FYI. I'll also be posting these items to the SharePoint site. Please let us know if you have any questions. We heard that this press release went out at 11 am today.



CONTACT:
press@epa.gov

FOR IMMEDIATE RELEASE
May 9, 2017

EPA and U.S. Army Solicit State Input on Redefining “Waters of the U.S.”

*“EPA is restoring states’ important role in the regulation of water” –
Administrator Pruitt*

WASHINGTON – U.S. Environmental Protection Agency and the U.S. Army sent a letter to governors today soliciting input from states on a new definition of protected waters that is in-line with a Supreme Court Justice Antonin Scalia’s opinion in the 2006 *Rapanos v. United States* case. Scalia’s definition explains that federal oversight should extend to “relatively permanent” waters and wetlands with a “continuous surface connection” to large rivers and streams.

“EPA is restoring states’ important role in the regulation of water,” said EPA Administrator Scott Pruitt. “Like President Trump, I believe that we need to work with our state governments to understand what they think is the best way to protect their waters, and what actions they are already taking to do so. We want to return to a regulatory partnership, rather than regulate by executive fiat.”

“The Army, together with the Corps of Engineers, is committed to working closely with and supporting the EPA on these rulemakings. As we go through the rulemaking process, we will continue to make the implementation of the Clean Water Act Section 404 regulatory program as transparent as possible for the regulated public,” said Douglas Lamont, senior official performing the duties of the Assistant Secretary of the Army for Civil Works.

The Clean Water Act asserts federal control over “traditionally navigable waters” without providing clarity or details about the law’s scope. President Donald Trump signed an executive order on February 28, 2017 to direct federal agencies to roll back and replace the Obama Administration’s Clean Water Rule – also known as the “Waters of the U.S.” or WOTUS – to ensure that the nation’s navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of Congress and the States under the Constitution.

To meet the objectives of the executive order, federal agencies are following a two-step process that will provide as much certainty as possible, as quickly as possible, to the regulated community and the public during the development of the replacement rule.

The first step is to revise the Code of Federal Regulations to re-codify the

definition of “Waters of the United States” which currently governs administration of the Clean Water Act, in light of a decision by the U.S. Court of Appeals for the Sixth Circuit staying a definition of “Waters of the United States” promulgated by the agencies in 2015. This action will simply make the text of the Code of Federal Regulations reflect the definition currently in effect under the Sixth Circuit stay. This action, when final, will not change current practice with respect to the how the definition applies, which is consistent with Supreme Court decisions, agency guidance documents, and longstanding practice.

The second step will be a public notice-and-comment rulemaking involving a substantive reevaluation and revision of the definition of “Waters of the U.S.” in accordance with the executive order. The letter sent to governors today is seeking input on the second step of the process.

R079

If you would rather not receive future communications from Environmental Protection Agency, let us know by clicking [here](#).
Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460 United States

<WOTUS2 tribal info and consultation - 5-18-2017.pdf>

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/15/2017 8:59:21 PM
To: Hart, Daniel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c6c7bdc1904543f497682a2da94a1119-Hart, Daniel]; Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]; Orquina, Jessica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=35f8dbb8836e42cc8fff027b4bc54c86-Orquina, Jessica]
CC: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]; Fagan, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=636207286dc84c7da82900aec48f7277-Fagan,Susan]
Subject: RE: Redirects should be working now

Thanks for your help!

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Hart, Daniel
Sent: Monday, May 15, 2017 4:53 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Orquina, Jessica <Orquina.Jessica@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>
Subject: Redirects should be working now

We're seeing the redirects working now

www.epa.gov/cleanwaterrule redirects to <https://www.epa.gov/wotus-rule>

Daniel (Danny) Hart | Director, Office of Web Communication, Office of Public Affairs, U.S. EPA | desk: 202-564-7577 |
cell: Personal Phone / Ex. 6

From: Bowman, Liz
Sent: Monday, May 15, 2017 4:36 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen

<MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>

Subject: RE: Draft WOTUS Web Press Release

Attached, please find the final release with Army's edits incorporated. We will hit send as soon as I get the word from Danny that we are live and ready to go. Thanks for your help – Liz

From: Eisenberg, Mindy

Sent: Monday, May 15, 2017 1:02 PM

To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>

Subject: RE: Draft WOTUS Web Press Release

Yes, giving Army and Corps a heads up would be good. Either I can send or you can send it to Cindy Barger and she can coordinate.

Mindy Eisenberg

Acting Director, Wetlands Division

Office of Wetlands, Oceans and Watersheds

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., NW, mailcode 4502T

Washington, DC 20460

(202) 566-1290

eisenberg.mindy@epa.gov

From: Bowman, Liz

Sent: Monday, May 15, 2017 1:00 PM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>

Subject: RE: Draft WOTUS Web Press Release

Press release is attached (with Sarah and Mindy's edits incorporated); should we send this to Army to let them know we are sending it. Who can I contact over there?

Thank you – Liz

From: Eisenberg, Mindy

Sent: Monday, May 15, 2017 12:42 PM

To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>

Subject: RE: Draft WOTUS Web Press Release

Thanks Liz,

Here are a few edits. Let me know if you have any questions.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Monday, May 15, 2017 12:34 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: Draft WOTUS Web Press Release

Hi Mindy – Attached, please find the draft press release; please review for accuracy and send me any necessary edits in tracked changes. Thank you – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 10:47 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Hi Nancy,
We're still waiting for some comments on the site, so we'll keep everyone posted.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Grantham, Nancy
Sent: Monday, May 15, 2017 10:01 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Checking in on timing here so OEI has an idea of when they will be turning on the redirect (the new page needs to be live prior to that happening).

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Personal Phone / Ex. 6 (mobile)

From: Eisenberg, Mindy
Sent: Friday, May 12, 2017 3:27 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

Thanks Liz. Haven't heard from Sarah yet. I think it may be better to aim for Monday afternoon to go live so we can have OGC, Sarah and Army take last review and then make any necessary edits.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Friday, May 12, 2017 3:13 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: Re: About WOTUS Page

As long as Sarah also looks at it all, it looks good to me from a comm side. I still need to work up a draft press release. I have been focused on Pebble Mine, so I will probably need to do the release over the weekend :/. It shouldn't be too complicated.

Sent from my iPhone

On May 12, 2017, at 2:04 PM, Eisenberg, Mindy <Eisenberg.Mindy@epa.gov> wrote:

Hi Liz,
You were interested in seeing where some of the links went. In the attachments that Brittany PDF'ed the links are live. However, some of these pages (such as **Deliberative Process / Ex. 5**)

are not public yet and can only be accessed when logged into WCMS. If you would like for Brittany to walk you through, she can come over to your office.

Thanks!

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Thursday, May 11, 2017 3:42 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

A few questions/edits:

-
-
-
-
-
-
-

Deliberative Process / Ex. 5

Thank you for your help and work on this! Please let me know if you have further questions. Thank you – Liz

From: Eisenberg, Mindy
Sent: Thursday, May 11, 2017 12:25 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: FW: About WOTUS Page

Hi Liz and Sarah,
Please use this PDF for “About WOTUS” on the new website. A couple of pages accidentally got left off.

Thanks!
Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 11, 2017 11:53 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: About WOTUS Page

Mindy – It looks like the last page of the About WOTUS webpage is missing from the email you guys received. I'm not sure how this happened, but I'm attaching a new version that has the last page included. This includes links to the wetlands page and other CWA programs.

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>
<404 WOTUS with Links.pdf>

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/15/2017 7:32:36 PM
To: Kwok, Rose [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3d2987ba8f246a5a9e37773201fd180-Kwok, Rose]
CC: Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]
Subject: Re: About WOTUS Page

I've reviewed and Army along with Sarah.

Sent from my iPhone

On May 15, 2017, at 3:31 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

Okay, thanks. Will we have a chance for a quick review? Or not until after it's gone out....

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 3:30 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>
Subject: Re: About WOTUS Page

Deliberative Process / Ex. 5

Sent from my iPhone

On May 15, 2017, at 3:28 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Christensen, Damaris
Sent: Monday, May 15, 2017 3:25 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Kwok, Rose <Kwok.Rose@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Re: About WOTUS Page

Question: should we recommend Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

If we just did: Deliberative Process / Ex. 5

Damaris

Sent from my iPhone

On May 15, 2017, at 2:28 PM, Bennett, Brittany <bennett.brittany@epa.gov> wrote:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Also, is this the 2001 SWANCC guidance? I'll add it if so.

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

From: Kwok, Rose
Sent: Monday, May 15, 2017 2:28 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>
Subject: RE: About WOTUS Page

Deliberative Process / Ex. 5

From: Bennett, Brittany
Sent: Monday, May 15, 2017 2:24 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>
Subject: RE: About WOTUS Page

Deliberative Process / Ex. 5

B

Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

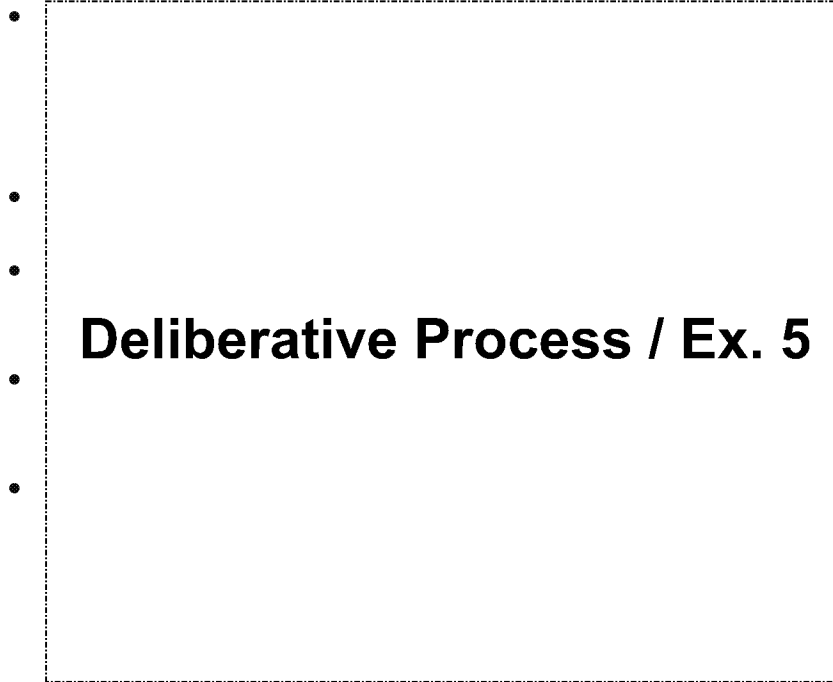
From: Kwok, Rose
Sent: Monday, May 15, 2017 2:09 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>
Subject: RE: About WOTUS Page

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Deliberative Process / Ex. 5 ?

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Cc: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>

Subject: RE: About WOTUS Page

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Some comments:

About WOTUS on WOTUS page:



-
- **Deliberative Process / Ex. 5**
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Cc: Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: RE: About WOTUS Page

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Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
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To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Thanks

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency

202-564-6879 (desk)
Personal Phone / Ex. 6 (mobile)

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Hi Nancy,
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eisenberg.mindy@epa.gov

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To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>;

Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>;

Bennett, Brittany <bennett.brittany@epa.gov>; Dibble,

Christine <Dibble.Christine@epa.gov>; MacKinnon,

Kathleen <MacKinnon.Kathleen@epa.gov>

Subject: RE: About WOTUS Page

A few questions/edits:

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Deliberative Process / Ex. 5

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Thank you for your help and work on this! Please let me know if you have further questions. Thank you – Liz

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Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
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Thanks!
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<About WOTUS with Links v2.pdf>

<404 WOTUS with Links.pdf>

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/15/2017 7:30:12 PM
To: Kwok, Rose [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3d2987ba8f246a5a9e37773201fd180-Kwok, Rose]
CC: Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]
Subject: Re: About WOTUS Page

Deliberative Process / Ex. 5

Sent from my iPhone

On May 15, 2017, at 3:28 PM, Kwok, Rose <Kwok.Rose@epa.gov> wrote:

Deliberative Process / Ex. 5

From: Christensen, Damaris
Sent: Monday, May 15, 2017 3:25 PM
To: Bennett, Brittany <bennett.brittany@epa.gov>
Cc: Kwok, Rose <Kwok.Rose@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: Re: About WOTUS Page

Question: should we recommend Deliberative Process / Ex. 5?

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

If we just did Deliberative Process / Ex. 5

Damaris

Sent from my iPhone

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Deliberative Process / Ex. 5

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Also, is this the 2001 SWANCC guidance? I'll add it if so.

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Deliberative Process / Ex. 5

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Deliberative Process / Ex. 5

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Subject: RE: About WOTUS Page

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Office of Public Affairs

US Environmental Protection Agency

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Personal Phone / Ex. 6 (mobile)

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Office of Wetlands, Oceans and Watersheds

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CC: Kwok, Rose [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3d2987ba8f246a5a9e37773201fd180-Kwok, Rose]; Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]
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Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Checking in on timing here so OEI has an idea of when they will be turning on the redirect (the new page needs to be live prior to that happening).

Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)

| | |
|------------------------|-----------------|
| Personal Phone / Ex. 6 | (mobile) |
|------------------------|-----------------|

From: Eisenberg, Mindy
Sent: Friday, May 12, 2017 3:27 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

Thanks Liz. Haven't heard from Sarah yet. I think it may be better to aim for Monday afternoon to go live so we can have OGC, Sarah and Army take last review and then make any necessary edits.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Friday, May 12, 2017 3:13 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>;
Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>;
MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
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Sent from my iPhone

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Hi Liz,
You were interested in seeing where some of the links went. In the attachments that
Brittany PDF'd the links are live. However, some of these pages (such as Deliberative Process / Ex. 5
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Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany
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Subject: RE: About WOTUS Page

A few questions/edits:

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-
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Deliberative Process / Ex. 5

Thank you for your help and work on this! Please let me know if you have further questions. Thank you – Liz

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Sent: Thursday, May 11, 2017 12:25 PM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>;

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Washington, DC 20460

(202) 566-1290

eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 11, 2017 11:53 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: About WOTUS Page

Mindy – It looks like the last page of the About WOTUS webpage is missing from the email you guys received. I'm not sure how this happened, but I'm attaching a new version that has the last page included. This includes links to the wetlands page and other CWA programs.

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Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>
<404 WOTUS with Links.pdf>

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/15/2017 5:02:18 PM
To: Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Grantham, Nancy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=12a3c2ed7158417fb0bb1b1b72a8cfb0-Grantham, Nancy]
CC: Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]; Bennett, Brittany [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3d7b265c202c467791ca4d4ac6b8db8b-Bennett, Br]; Fagan, Susan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=636207286dc84c7da82900aec48f7277-Fagan,Susan]; Dibble, Christine [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=9d2765742fc04d3a93fdb719d6496779-CDibbl03]; MacKinnon, Kathleen [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ca6d80cff786462fa2e811e782f837d2-Kmackinn]; Hart, Daniel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c6c7bdc1904543f497682a2da94a1119-Hart, Daniel]
Subject: RE: Draft WOTUS Web Press Release

Yes, giving Army and Corps a heads up would be good. Either I can send or you can send it to Cindy Barger and she can coordinate.

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Monday, May 15, 2017 1:00 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: Draft WOTUS Web Press Release

Press release is attached (with Sarah and Mindy's edits incorporated); should we send this to Army to let them know we are sending it. Who can I contact over there?

Thank you – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 12:42 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen

<MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>

Subject: RE: Draft WOTUS Web Press Release

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Mindy

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Office of Wetlands, Oceans and Watersheds

U.S. Environmental Protection Agency

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Washington, DC 20460

(202) 566-1290

eisenberg.mindy@epa.gov

From: Bowman, Liz

Sent: Monday, May 15, 2017 12:34 PM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>

Subject: Draft WOTUS Web Press Release

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From: Eisenberg, Mindy

Sent: Monday, May 15, 2017 10:47 AM

To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>

Subject: RE: About WOTUS Page

Hi Nancy,

We're still waiting for some comments on the site, so we'll keep everyone posted.

Mindy

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eisenberg.mindy@epa.gov

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Sent: Monday, May 15, 2017 10:01 AM
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Subject: RE: About WOTUS Page

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Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)

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|------------------------|
| Personal Phone / Ex. 6 |
|------------------------|

(mobile)

From: Eisenberg, Mindy
Sent: Friday, May 12, 2017 3:27 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
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Sent from my iPhone

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Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Bowman, Liz

Sent: Thursday, May 11, 2017 3:42 PM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>;

Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>

Subject: RE: About WOTUS Page

A few questions/edits:

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Deliberative Process / Ex. 5

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Sent: Thursday, May 11, 2017 12:25 PM
To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: FW: About WOTUS Page

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eisenberg.mindy@epa.gov

From: Bennett, Brittany
Sent: Thursday, May 11, 2017 11:53 AM
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Brittany K. Bennett
Ecologist
U.S. EPA, Office of Water
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<About WOTUS with Links v2.pdf>
<404 WOTUS with Links.pdf>

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/15/2017 4:49:17 PM
To: Bowman, Liz [Bowman.Liz@epa.gov]
Subject: RE: Draft WOTUS Web Press Release
Attachments: 2017-05-15 Draft WOTUS Website Release (SG edits)_mge.docx

Oops!

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
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Washington, DC 20460
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eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Monday, May 15, 2017 12:45 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: Draft WOTUS Web Press Release

I think you forgot the attachment.

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Sent: Monday, May 15, 2017 12:42 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
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| |
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| Personal Phone / Ex. 6 |
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CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Fagan, Susan [Fagan.Susan@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]
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eisenberg.mindy@epa.gov

From: Bowman, Liz
Sent: Monday, May 15, 2017 12:34 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: Draft WOTUS Web Press Release

Hi Mindy – Attached, please find the draft press release; please review for accuracy and send me any necessary edits in tracked changes. Thank you – Liz

From: Eisenberg, Mindy
Sent: Monday, May 15, 2017 10:47 AM
To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
Subject: RE: About WOTUS Page

Hi Nancy,
We're still waiting for some comments on the site, so we'll keep everyone posted.

Mindy

Mindy Eisenberg
Acting Director, Wetlands Division

Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Grantham, Nancy
Sent: Monday, May 15, 2017 10:01 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Fagan, Susan <Fagan.Susan@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>; Hart, Daniel <Hart.Daniel@epa.gov>
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Thanks ng

Nancy Grantham
Office of Public Affairs
US Environmental Protection Agency
202-564-6879 (desk)
Personal Phone / Ex. 6

From: Eisenberg, Mindy
Sent: Friday, May 12, 2017 3:27 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
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Subject: RE: About WOTUS Page

A few questions/edits:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

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Sent: Thursday, May 11, 2017 12:25 PM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>;

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Subject: FW: About WOTUS Page

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U.S. Environmental Protection Agency

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eisenberg.mindy@epa.gov

From: Bennett, Brittany

Sent: Thursday, May 11, 2017 11:53 AM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

Subject: About WOTUS Page

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Brittany K. Bennett

Ecologist

U.S. EPA, Office of Water

ph: 202.564.1896

Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>

<404 WOTUS with Links.pdf>

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/15/2017 2:46:33 PM
To: Grantham, Nancy [Grantham.Nancy@epa.gov]; Bowman, Liz [Bowman.Liz@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Fagan, Susan [Fagan.Susan@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]; Hart, Daniel [Hart.Daniel@epa.gov]
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US Environmental Protection Agency
202-564-6879 (desk)

Personal Phone / Ex. 6

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Sent from my iPhone

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Thanks!

Mindy Eisenberg
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To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

A few questions/edits:

Deliberative Process / Ex. 5

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Sent: Thursday, May 11, 2017 12:25 PM

To: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>;

Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>

Subject: FW: About WOTUS Page

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Thanks!

Mindy

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U.S. Environmental Protection Agency

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Washington, DC 20460

(202) 566-1290

eisenberg.mindy@epa.gov

From: Bennett, Brittany

Sent: Thursday, May 11, 2017 11:53 AM

To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>

Subject: About WOTUS Page

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B

Brittany K. Bennett
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U.S. EPA, Office of Water
ph: 202.564.1896
Bennett.Brittany@epa.gov

<About WOTUS with Links v2.pdf>

<404 WOTUS with Links.pdf>

Message

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Sent: 5/12/2017 8:36:31 PM
To: Greenwalt, Sarah [greenwalt.sarah@epa.gov]
Subject: RE: About WOTUS Page

Thanks Sarah

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Acting Director, Wetlands Division
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1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Greenwalt, Sarah
Sent: Friday, May 12, 2017 3:43 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: RE: About WOTUS Page

Sorry guys, I've been swamped. Will review this weekend and provide any comments before Monday. Great work on this guys!

Sarah A. Greenwalt
Senior Advisor to the Administrator
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency
Work: 202-564-1722 | **Personal Phone / Ex. 6**
Greenwalt.Sarah@epa.gov

From: Bowman, Liz
Sent: Friday, May 12, 2017 3:42 PM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Cc: Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Dibble, Christine <Dibble.Christine@epa.gov>; MacKinnon, Kathleen <MacKinnon.Kathleen@epa.gov>
Subject: Re: About WOTUS Page

That sounds like a good plan

Sent from my iPhone

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Sent: 5/12/2017 7:26:35 PM
To: Bowman, Liz [Bowman.Liz@epa.gov]
CC: Greenwalt, Sarah [greenwalt.sarah@epa.gov]; Grantham, Nancy [Grantham.Nancy@epa.gov]; Bennett, Brittany [bennett.brittany@epa.gov]; Dibble, Christine [Dibble.Christine@epa.gov]; MacKinnon, Kathleen [MacKinnon.Kathleen@epa.gov]
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Sent: 5/9/2017 9:17:51 PM
To: Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Downing, Donna [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d853e50d3a2b489daf2cc498c052e3d6-DDowning]; Kwok, Rose [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d3d2987ba8f246a5a9e37773201fd180-Kwok, Rose]
Subject: RE: Looping in the Regions

Yes, we need to **Deliberative Process / Ex. 5**

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Christensen, Damaris
Sent: Tuesday, May 09, 2017 5:07 PM
To: Downing, Donna <Downing.Donna@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Subject: Looping in the Regions

Hey all,

I just wanted to flag for consideration the issue of **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Honestly I'm not sure **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Damaris

From: Cook-Shyovitz, Becky
Sent: Tuesday, May 09, 2017 4:37 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>
Subject: FW: Question on WOTUS Letters?

Hi Damaris **Deliberative Process / Ex. 5**

From: Maier, Brent
Sent: Tuesday, May 09, 2017 4:35 PM
To: Cook-Shyovitz, Becky <Cook-Shyovitz.Becky@epa.gov>
Cc: Bowles, Jack <Bowles.Jack@epa.gov>
Subject: Question on WOTUS Letters?

Becky –

Request from our Acting RA on

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Would you happen to know should be reached out to in HQ on this?

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256

From: Strauss, Alexis

Sent: Tuesday, May 09, 2017 1:28 PM

To: Maier, Brent <Maier.Brent@epa.gov>

Cc: Zito, Kelly <ZITO.KELLY@EPA.GOV>; Torres, Tomas <Torres.Tomas@epa.gov>

Subject: RE: FYI - EPA, Army Corps want state input on WOTUS rewrite - Letters to R9 Governors

Please ask HQ if

Deliberative Process / Ex. 5

Alexis Strauss
Acting Regional Administrator
E.P.A. Region 9
75 Hawthorne Street
San Francisco, CA 94105
415-972-3572

From: Maier, Brent

Sent: Tuesday, May 9, 2017 12:35 PM

To: Torres, Tomas <Torres.Tomas@epa.gov>; Brush, Jason <Brush.Jason@epa.gov>; Amato, Paul <Amato.Paul@epa.gov>; Marincola, JamesPaul <Marincola.JamesPaul@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Strauss, Alexis <Strauss.Alexis@epa.gov>; Jordan, Deborah <Jordan.Deborah@epa.gov>

Cc: Keener, Bill <Keener.Bill@epa.gov>; Zito, Kelly <ZITO.KELLY@EPA.GOV>; Higuchi, Dean <Higuchi.Dean@epa.gov>; Mogharabi, Nahal <MOGHARABI.NAHAL@EPA.GOV>; PerezSullivan, Margot <PerezSullivan.Margot@epa.gov>; Calvino, Maria Soledad <Calvino.Maria@epa.gov>; Huitric, Michele <Huitric.Michele@epa.gov>

Subject: FYI - EPA, Army Corps want state input on WOTUS rewrite - Letters to R9 Governors

I am attaching copies of letters sent to R9 Governors for your reference. OCIR also included the PDF of a PowerPoint on federalism when they sent each letter.

From today's Greenwire:

Link to letter to Governors: https://www.eenews.net/assets/2017/05/09/document_gw_12.pdf

EPA, Army Corps want state input on WOTUS rewrite

Ariel Wittenberg, E&E News reporter - Published: Tuesday, May 9, 2017



U.S. EPA has asked for state input on how to define which wetlands and small waterways are covered by the Clean Water Act. Photo courtesy of Army Corps of Engineers.

The Trump administration is asking states for advice on how to define which wetlands and small waterways are covered by the Clean Water Act.

U.S. EPA Administrator Scott Pruitt and acting Assistant Secretary of the Army for Civil Works Douglas Lamont sent letters to governors today asking for "input and wisdom" on how to redraw federal jurisdiction.

"Consulting with state and local government officials, or their representative national organizations, is a priority for us and President Trump," the letter says.

The letter is the latest step in the Trump administration's efforts to roll back federal jurisdiction over wetlands and small waterways following the Obama administration's 2015 Clean Water Rule.

That controversial regulation, also known as the Waters of the U.S., or WOTUS, rule, was opposed by farmers, land developers and the energy industry, who labeled it government overreach.

The Trump administration has already moved to repeal the WOTUS rule, which is currently stayed by the 6th U.S. Circuit Court of Appeals. A proposal to revoke WOTUS is pending White House review.

But the Trump administration says it won't stop there. After repealing WOTUS, it wants to replace the regulation with one that will line up federal Clean Water Act oversight with the views expressed by the late Supreme Court Justice Antonin Scalia.

In the 2006 *Rapanos v. United States* case, Scalia wrote that federal protection extends only to "relatively permanent" waters and wetlands with a continuous surface connection to larger rivers and streams.

In their letter, Pruitt and Lamont ask states how a Scalia-based regulation would affect them.

"We want to clearly understand what definition will work best for your state as we develop a new federal definition of 'waters of the U.S.' consistent with the Scalia opinion," they write. "In addition, we are interested in understanding how your state might respond to a reduced scope of federal jurisdiction under the Clean Water Act."

The Trump administration's approach is a significant departure from how the Obama and George W. Bush administrations defined "waters of the United States." They both relied on Justice Anthony Kennedy's *Rapanos* opinion that waters must have a "significant nexus" to navigable rivers and seas. That nexus could include not just surface connections but also biological or chemical ones.

Brent Maier

Congressional Liaison
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St. (OPA-3)
San Francisco, CA 94105
Ph: 415.947.4256

Message

From: Eisenberg, Mindy [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=CFB4C26BB6F44C7DB69F9884628B3EF9-EISENBERG, MINDY]
Sent: 5/9/2017 12:49:35 PM
To: Moore, Kristie [Moore.Kristie@epa.gov]; Weinstock, Larry [Weinstock.Larry@epa.gov]
Subject: RE: REVIEW: FY18 Budget Press Conference/Hearing Papers
Attachments: Fact Sheet for FY18 Budget -- WOTUS v2sc.docx

Hi Kristie,

Deliberative Process / Ex. 5

Mindy Eisenberg
Acting Director, Wetlands Division
Office of Wetlands, Oceans and Watersheds
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW, mailcode 4502T
Washington, DC 20460
(202) 566-1290
eisenberg.mindy@epa.gov

From: Moore, Kristie
Sent: Tuesday, May 09, 2017 7:08 AM
To: Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Weinstock, Larry <Weinstock.Larry@epa.gov>
Subject: FW: REVIEW: FY18 Budget Press Conference/Hearing Papers

Mindy and Larry,

Attached includes Sandra's edits. I sent these to OW yesterday afternoon, but let me know if you have any concern. I can do a quick follow-up today.

Kristie

Kristie M. Moore
Office of Wetlands Oceans and Watersheds
U.S. Environmental Protection Agency
EPA West
1200 Pennsylvania Ave., NW
MC-4501 T
Washington, DC, 20460
office: (202) 566-1616
fax: (202) 566-1544

From: Connors, Sandra
Sent: Monday, May 08, 2017 3:41 PM
To: Moore, Kristie <Moore.Kristie@epa.gov>
Subject: RE: REVIEW: FY18 Budget Press Conference/Hearing Papers

Kristie – Wasn't sure how to edit on SP so just edited in Word. Maybe I can get a tutorial when you are back in 😊

Sandra

Sandra L. Connors
Deputy Director
Office of Wetlands, Oceans, and Watersheds
US Environmental Protection Agency, MC 4501T
1200 Pennsylvania Avenue, WJCW 7130A
Washington, DC 20460
(202)564-4231
connors.sandra@epa.gov

From: Moore, Kristie
Sent: Friday, May 05, 2017 11:10 AM
To: Connors, Sandra <Connors.Sandra@epa.gov>; Goodin, John <Goodin.John@epa.gov>
Cc: Brown, Robert <Brown.Robert@epa.gov>; Chancey, Barbara <Chancey.Barbara@epa.gov>
Subject: REVIEW: FY18 Budget Press Conference/Hearing Papers

Sandra,

Attached are the FY18 press conference/hearing papers prepared by OWOW. They're also in a folder called "[For Sandra and John's Review](#)" on SharePoint. WOTUS is the only one due on Monday (still waiting on this one), but we can expect the other papers will likely be due soon after.

The FY18 President's Budget will be released on **Monday, May 22.**

Deliberative Process / Ex. 5

The Senate Appropriation Committee Hearing is **June 27.**

Deliberative Process / Ex. 5

Attached factsheets:

Deliberative Process / Ex. 5

What I still owe you:

Deliberative Process / Ex. 5

Up in the air:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I'll drop-off hard copies. Please let me know what edits you have.

Thank you,
Kristie

Kristie M. Moore
Office of Wetlands Oceans and Watersheds
U.S. Environmental Protection Agency
EPA West
1200 Pennsylvania Ave., NW
MC-4501 T
Washington, DC, 20460
office: (202) 566-1616
fax: (202) 566-1544

To: Brush, Jason[Brush.Jason@epa.gov]
Cc: Christensen, Damaris[Christensen.Damaris@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]
From: Eisenberg, Mindy
Sent: Wed 5/3/2017 9:13:15 PM
Subject: Re: Final WOTUS ppt for R9 RTOC ?

Deliberative Process / Ex. 5

Sent from my iPhone

On May 3, 2017, at 5:06 PM, Brush, Jason <Brush.Jason@epa.gov> wrote:

Thanks! That clarification of #2 really helps. However, is it better to say **Deliberative Process / Ex. 5** Deliberative Process / Ex. 5
Deliberative Process / Ex. 5 ? What if **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5 ?

From: Christensen, Damaris
Sent: Wednesday, May 03, 2017 1:57 PM
To: Brush, Jason <Brush.Jason@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>
Subject: RE: Final WOTUS ppt for R9 RTOC ?

Hey there!

I'm copying Mindy so she can weigh in also. Sorry about the kerfuffle at the Region –

- 1. **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5
- 2. **Deliberative Process / Ex. 5**
- 3. **Deliberative Process / Ex. 5**

Damaris

From: Brush, Jason
Sent: Wednesday, May 03, 2017 4:08 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: FW: Final WOTUS ppt for R9 RTOC ?
Importance: High

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks - Jason

Jason A. Brush

**Acting Assistant Director, Water Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (WTR-2)
San Francisco, CA 94105**
~~~~~

**desk: 415.972.3483**  
~~~~~

From: Christensen, Damaris
Sent: Wednesday, May 03, 2017 12:51 PM
To: Kwok, Rose <Kwok.Rose@epa.gov>; Brush, Jason <Brush.Jason@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: RE: Final WOTUS ppt for R9 RTOC ?

Rose, I didn't see any formatting issues pop up.

Jason, you are going to walk through the powerpoint, right? Do you have any questions for us before we put you on the spot? Some slides have notes more than TPs; others have nothing.

Thanks again!

Damaris

From: Kwok, Rose
Sent: Wednesday, May 03, 2017 1:31 PM
To: Christensen, Damaris <Christensen.Damaris@epa.gov>; Brush, Jason <Brush.Jason@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: Re: Final WOTUS ppt for R9 RTOC ?

I don't think my personal computer has the font that the PPT is in - can someone check this to make sure the slides look ok? Jason - I've updated the title slide and the next steps slide to make it up-to-date. Please let the tribes know that the content in this PPT is the same as the one from April and will be the same for the webinar in May. Thanks!!!

Rose Kwok
U.S. Environmental Protection Agency
Wetlands Division
kwok.rose@epa.gov
202-566-0657, 202-566-1375 (fax)

From: Christensen, Damaris
Sent: Wednesday, May 3, 2017 1:07:38 PM
To: Kwok, Rose; Brush, Jason
Cc: Downing, Donna
Subject: RE: Final WOTUS ppt for R9 RTOC ?

Ok will leave to you, thanks.

And I happened to be on the phone with Donna so can confirm we both are standing down. ☺

All, I know Rose is elsewhere working through some connection issues with Paul Amato. Do we need to try and schedule a meeting to do a run-through or talk through the process this afternoon or tomorrow morning with everyone from Region 9?

If so, Rose, give me an approx.. time and I can take care of setting the meeting up if you'd like. If I don't hear from you I will assume you have this under control and people from R9 are comfortable.

Damaris

From: Kwok, Rose
Sent: Wednesday, May 03, 2017 1:04 PM
To: Brush, Jason <Brush.Jason@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>
Cc: Downing, Donna <Downing.Donna@epa.gov>
Subject: Re: Final WOTUS ppt for R9 RTOC ?

Jason - this looks like an older version. I'll send you the right version momentarily. D&D - I need to make a correction from the version that is currently on SP

Rose Kwok
U.S. Environmental Protection Agency
Wetlands Division
kwok.rose@epa.gov
202-566-0657, 202-566-1375 (fax)

From: Brush, Jason
Sent: Wednesday, May 3, 2017 12:47:34 PM
To: Christensen, Damaris; Kwok, Rose
Cc: Downing, Donna
Subject: Final WOTUS ppt for R9 RTOC ?

Hi guys – Can you make sure I have the final, please? Cheers - JB

Jason A. Brush
Acting Assistant Director, Water Division
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street (WTR-2)
San Francisco, CA 94105

~~~~~

**desk: 415.972.3483**

~~~~~

From: Louis, Gail
Sent: Wednesday, May 03, 2017 9:43 AM
To: Brush, Jason <Brush.Jason@epa.gov>
Cc: Amato, Paul <Amato.Paul@epa.gov>
Subject: FW: WOTUS Information Session at May R9 RTOC Meeting

This is the latest version I saw. We need to correct the typo (Regional Tribal Operations Committee).

~~~~~><(((g>~~~~~><(((g>~~~~~><(((g>

Gail Louis, Manager  
Tribal Water Section



US EPA Region 9, Water Division  
75 Hawthorne Street (WTR-3-4)  
San Francisco, CA 94105  
Phone: (415) 972-3467  
Fax: (415) 947-3537  
Email: [louis.gail@epa.gov](mailto:louis.gail@epa.gov)  
'~`...><(((e>.'~`...><(((e>.'~`...><(((e>

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**From:** Christensen, Damaris  
**Sent:** Monday, April 24, 2017 2:17 PM  
**To:** Ebbert, Laura <[Ebbert.Laura@epa.gov](mailto:Ebbert.Laura@epa.gov)>; Amato, Paul <[Amato.Paul@epa.gov](mailto:Amato.Paul@epa.gov)>; Brush, Jason <[Brush.Jason@epa.gov](mailto:Brush.Jason@epa.gov)>; Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>; Bennett, Brittany <[bennett.brittany@epa.gov](mailto:bennett.brittany@epa.gov)>; Mojica Hernandez, Ruben <[mojica-hernandez.ruben@epa.gov](mailto:mojica-hernandez.ruben@epa.gov)>; Louis, Gail <[Louis.Gail@epa.gov](mailto:Louis.Gail@epa.gov)>  
**Cc:** Gude, Karen <[Gude.Karen@epa.gov](mailto:Gude.Karen@epa.gov)>; Kwok, Rose <[Kwok.Rose@epa.gov](mailto:Kwok.Rose@epa.gov)>; Wesson, Dolores <[Wesson.Dolores@epa.gov](mailto:Wesson.Dolores@epa.gov)>  
**Subject:** RE: WOTUS Information Session at May R9 RTOC Meeting

Still draft, but a slightly later version per our discussion today.

Damaris

---

**From:** Christensen, Damaris  
**Sent:** Monday, April 24, 2017 11:22 AM  
**To:** Ebbert, Laura <[Ebbert.Laura@epa.gov](mailto:Ebbert.Laura@epa.gov)>; Amato, Paul <[Amato.Paul@epa.gov](mailto:Amato.Paul@epa.gov)>; Brush, Jason <[Brush.Jason@epa.gov](mailto:Brush.Jason@epa.gov)>; Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>; Bennett, Brittany <[bennett.brittany@epa.gov](mailto:bennett.brittany@epa.gov)>; Mojica Hernandez, Ruben <[mojica-hernandez.ruben@epa.gov](mailto:mojica-hernandez.ruben@epa.gov)>; Louis, Gail <[Louis.Gail@epa.gov](mailto:Louis.Gail@epa.gov)>  
**Cc:** Gude, Karen <[Gude.Karen@epa.gov](mailto:Gude.Karen@epa.gov)>; Kwok, Rose <[kwok.rose@epa.gov](mailto:kwok.rose@epa.gov)>; Wesson, Dolores <[Wesson.Dolores@epa.gov](mailto:Wesson.Dolores@epa.gov)>  
**Subject:** RE: WOTUS Information Session at May R9 RTOC Meeting

Here's the DRAFT powerpoint.

Damaris

-----Original Appointment-----

**From:** Christensen, Damaris  
**Sent:** Saturday, April 22, 2017 10:56 PM  
**To:** Christensen, Damaris; Ebbert, Laura; Amato, Paul; Brush, Jason; Eisenberg, Mindy; Bennett, Brittany; Mojica Hernandez, Ruben; Louis, Gail  
**Cc:** Gude, Karen; Kwok, Rose; Wesson, Dolores  
**Subject:** WOTUS Information Session at May R9 RTOC Meeting  
**When:** Monday, April 24, 2017 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** DCRoomWest7129/DC-CCW-OWOW also **Deliberative Process / Ex. 5**

Hi all,

Call-in: **Deliberative Process / Ex. 5**

This is to touch base about the R9 RTOC tribal info session/ leader to leader consultation.  
**Personal Matters / Ex. 6** we'll make sure to coordinate here at HQ.

I'm attaching the tribal consultation letter that went out Thursday, and Karen's email below initially reaching out to Laura. We have a draft powerpoint as well and I'll try to send a copy of that when we get a few more comments from people.

I do have one question for you all: is this meeting set-up likely to allow for people from EPA HQ or Corps HQ to call in?

Damaris

Rose – since you have another meeting scheduled tentatively at this time, and will be in Utah at another meeting May 3-4, don't feel you have to attend this, but consider it an FYI.

---

**From:** Gude, Karen  
**Sent:** Tuesday, April 18, 2017 7:13 AM  
**To:** Ebbert, Laura <Ebbert.Laura@epa.gov>  
**Cc:** Christensen, Damaris <Christensen.Damaris@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>  
**Subject:** Seeking WOUS Information Session at May R9 RTOC Meeting, if Possible

Laura,

Hi. I wanted to follow up to our conversation late last week with regard to the possibility of scheduling an information session for tribes with regard to the upcoming tribal consultation and coordination on a forthcoming proposal to rescind and then revise the definition of "waters of the United States." (Clean Water Rule: Definition of "Waters of the United States"; Final Rule, 80 Fed. Reg. 37,054 (June 29, 2015)). If possible, we would like to schedule a session with tribes on May 4 as part of the Region 9 RTOC meeting, structuring the meeting as an information session with tribes, followed by a few minutes reserved for government-to-government consultation and/or tribal comments to allow tribes that are willing and/or able to provide input.

I'm including some background information on this effort below. OW plans to initiate tribal consultation as early as this week. I'm cc'ing Damaris Christensen and Delores Wesson, both of OW/OWOW, who have been working on the tribal consultation preparations related to this action, for awareness. OWOW is working to confirm a point person to present information/manage the tribal information session at the R9 RTOC meeting.

Any assistance in coordinating and/or scheduling a session at the RTOC would be greatly appreciated. If you should have any questions or concerns or should need any additional information from us, please do not hesitate to let me know.

**Background information:**

*On February 28, the President issued an Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." The EO states that it is in the national interest to ensure that the nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the states under the Constitution. The EO directs EPA and ACOE: (1) to review the existing Clean Water Rule (CWR) for consistency with these priorities and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law, and (2) to consider interpreting the term "navigable waters," in a manner consistent with the Scalia opinion in *Rapanos v. U.S.**

*The agencies intend to follow an expeditious, two-step process that will provide certainty across the country: (1) an initial rulemaking to rescind the 2015 rule and reinstate the regulatory approach that, except for a brief two-month period prior to the Sixth Circuit Court of Appeals' stay of the 2015 rule, has been the regulation in place since 1986, and thus maintains the status quo, and (2) a second rulemaking to revise the definition of waters of the U.S. consistent with direction in the E.O. Justice Scalia's *Rapanos* opinion indicates Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.*

*OW plans to initiate tribal consultation as early as this week. The tribal consultation will focus solely on the rulemaking to revise the definition of WOUS consistent with direction provided in the February 28 EO, not on the withdrawal of the current CWR.*

Thank you,

Karen Gude  
Tribal Program Coordinator (detail)  
U.S. EPA/Office of Water  
Phone: (202) 564-0831

**To:** Christensen, Damaris[Christensen.Damaris@epa.gov]  
**Cc:** Brush, Jason[Brush.Jason@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]  
**From:** Eisenberg, Mindy  
**Sent:** Wed 5/3/2017 9:01:31 PM  
**Subject:** Re: Final WOTUS ppt for R9 RTOC ?

**Deliberative Process / Ex. 5**

Sent from my iPhone

On May 3, 2017, at 4:57 PM, Christensen, Damaris <Christensen.Damaris@epa.gov> wrote:

Hey there!

I'm copying Mindy so she can weigh in also. Sorry about the kerfuffle at the Region –

- 1. **Deliberative Process / Ex. 5**
- 2. **Deliberative Process / Ex. 5**
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Damaris

**From:** Brush, Jason  
**Sent:** Wednesday, May 03, 2017 4:08 PM  
**To:** Christensen, Damaris <Christensen.Damaris@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>  
**Cc:** Downing, Donna <Downing.Donna@epa.gov>  
**Subject:** FW: Final WOTUS ppt for R9 RTOC ?  
**Importance:** High

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Thanks - Jason

**Jason A. Brush**  
Acting Assistant Director, Water Division  
U.S. Environmental Protection Agency, Region 9

75 Hawthorne Street (WTR-2)

San Francisco, CA 94105

~~~~~

desk: 415.972.3483

~~~~~

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**From:** Christensen, Damaris

**Sent:** Wednesday, May 03, 2017 12:51 PM

**To:** Kwok, Rose <[Kwok.Rose@epa.gov](mailto:Kwok.Rose@epa.gov)>; Brush, Jason <[Brush.Jason@epa.gov](mailto:Brush.Jason@epa.gov)>

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Thanks again!

Damaris

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**From:** Kwok, Rose

**Sent:** Wednesday, May 03, 2017 1:31 PM

**To:** Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>; Brush, Jason <[Brush.Jason@epa.gov](mailto:Brush.Jason@epa.gov)>

**Cc:** Downing, Donna <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>

**Subject:** Re: Final WOTUS ppt for R9 RTOC ?

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Rose Kwok

U.S. Environmental Protection Agency

Wetlands Division

[kwok.rose@epa.gov](mailto:kwok.rose@epa.gov)

202-566-0657, 202-566-1375 (fax)

---

**From:** Christensen, Damaris

**Sent:** Wednesday, May 3, 2017 1:07:38 PM

**To:** Kwok, Rose; Brush, Jason

**Cc:** Downing, Donna

**Subject:** RE: Final WOTUS ppt for R9 RTOC ?

Ok will leave to you, thanks.

And I happened to be on the phone with Donna so can confirm we both are standing down. ☺

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**Cc:** Downing, Donna <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>  
**Subject:** Re: Final WOTUS ppt for R9 RTOC ?

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Rose Kwok  
U.S. Environmental Protection Agency  
Wetlands Division  
[kwok.rose@epa.gov](mailto:kwok.rose@epa.gov)  
202-566-0657, 202-566-1375 (fax)

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**Sent:** Wednesday, May 3, 2017 12:47:34 PM  
**To:** Christensen, Damaris; Kwok, Rose  
**Cc:** Downing, Donna  
**Subject:** Final WOTUS ppt for R9 RTOC ?

Hi guys – Can you make sure I have the final, please? Cheers - JB

**Jason A. Brush**  
**Acting Assistant Director, Water Division**  
**U.S. Environmental Protection Agency, Region 9**  
**75 Hawthorne Street (WTR-2)**  
**San Francisco, CA 94105**  
~~~~~

desk: 415.972.3483
~~~~~

---

**From:** Louis, Gail  
**Sent:** Wednesday, May 03, 2017 9:43 AM  
**To:** Brush, Jason <[Brush.Jason@epa.gov](mailto:Brush.Jason@epa.gov)>  
**Cc:** Amato, Paul <[Amato.Paul@epa.gov](mailto:Amato.Paul@epa.gov)>  
**Subject:** FW: WOTUS Information Session at May R9 RTOC Meeting

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~~~~~><(((q>~~~~~><(((q>~~~~~><(((q>  
Gail Louis, Manager
Tribal Water Section
US EPA Region 9, Water Division
75 Hawthorne Street (WTR-3-4)
San Francisco, CA 94105
Phone: (415) 972-3467
Fax: (415) 947-3537
Email: louis.gail@epa.gov
~~~~~><(((q>~~~~~><(((q>~~~~~><(((q>

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**From:** Christensen, Damaris  
**Sent:** Monday, April 24, 2017 2:17 PM  
**To:** Ebbert, Laura <[Ebbert.Laura@epa.gov](mailto:Ebbert.Laura@epa.gov)>; Amato, Paul <[Amato.Paul@epa.gov](mailto:Amato.Paul@epa.gov)>; Brush, Jason <[Brush.Jason@epa.gov](mailto:Brush.Jason@epa.gov)>; Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>; Bennett, Brittany <[bennett.brittany@epa.gov](mailto:bennett.brittany@epa.gov)>; Mojica Hernandez, Ruben <[mojica-hernandez.ruben@epa.gov](mailto:mojica-hernandez.ruben@epa.gov)>; Louis, Gail <[Louis.Gail@epa.gov](mailto:Louis.Gail@epa.gov)>

**Cc:** Gude, Karen <Gude.Karen@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>

**Subject:** RE: WOTUS Information Session at May R9 RTOC Meeting

Still draft, but a slightly later version per our discussion today.

Damaris

---

**From:** Christensen, Damaris

**Sent:** Monday, April 24, 2017 11:22 AM

**To:** Ebbert, Laura <Ebbert.Laura@epa.gov>; Amato, Paul <Amato.Paul@epa.gov>; Brush, Jason <Brush.Jason@epa.gov>; Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Bennett, Brittany <bennett.brittany@epa.gov>; Mojica Hernandez, Ruben <mojica-hernandez.ruben@epa.gov>; Louis, Gail <Louis.Gail@epa.gov>

**Cc:** Gude, Karen <Gude.Karen@epa.gov>; Kwok, Rose <kwok.rose@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>

**Subject:** RE: WOTUS Information Session at May R9 RTOC Meeting

Here's the DRAFT powerpoint.

Damaris

-----Original Appointment-----

**From:** Christensen, Damaris

**Sent:** Saturday, April 22, 2017 10:56 PM

**To:** Christensen, Damaris; Ebbert, Laura; Amato, Paul; Brush, Jason; Eisenberg, Mindy; Bennett, Brittany; Mojica Hernandez, Ruben; Louis, Gail

**Cc:** Gude, Karen; Kwok, Rose; Wesson, Dolores

**Subject:** WOTUS Information Session at May R9 RTOC Meeting

**When:** Monday, April 24, 2017 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** DCRoomWest7129/DC-CCW-OWOW also Nonresponsive Conference Code/ Ex. 6

Hi all,

Call-in: Nonresponsive Conference Code/ Ex. 6

This is to touch base about the R9 RTOC tribal info session/ leader to leader consultation.

Personal Matters / Ex. 6

**Personal Matters / Ex. 6**

so we'll make sure to coordinate here at HQ.

I'm attaching the tribal consultation letter that went out Thursday, and Karen's email below initially reaching out to Laura. We have a draft powerpoint as well and I'll try to send a copy of that when we get a few more comments from people.

I do have one question for you all: is this meeting set-up likely to allow for people from EPA HQ or Corps HQ to call in?

Damaris

Rose – since you have another meeting scheduled tentatively at this time, and will be in Utah at another meeting May 3-4, don't feel you have to attend this, but consider it an FYI.

---

**From:** Gude, Karen

**Sent:** Tuesday, April 18, 2017 7:13 AM

**To:** Ebbert, Laura <Ebbert.Laura@epa.gov>

**Cc:** Christensen, Damaris <Christensen.Damaris@epa.gov>; Wesson, Dolores <Wesson.Dolores@epa.gov>

Laura,

Hi. I wanted to follow up to our conversation late last week with regard to the possibility of scheduling an information session for tribes with regard to the upcoming tribal consultation and coordination on a forthcoming proposal to rescind and then revise the definition of "waters of the United States." (Clean Water Rule: Definition of "Waters of the United States"; Final Rule, 80 Fed. Reg. 37,054 (June 29, 2015)). If possible, we would like to schedule a session with tribes on May 4 as part of the Region 9 RTOC meeting, structuring the meeting as an information session with tribes, followed by a few minutes reserved for government-to-government consultation and/or tribal comments to allow tribes that are willing and/or able to provide input.

I'm including some background information on this effort below. OW plans to initiate tribal consultation as early as this week. I'm cc'ing Damaris Christensen and Delores Wesson, both of OW/OWOW, who have been working on the tribal consultation preparations related to this action, for awareness. OWOW is working to confirm a point person to present information/manage the tribal information session at the R9 RTOC meeting.

Any assistance in coordinating and/or scheduling a session at the RTOC would be greatly appreciated. If you should have any questions or concerns or should need any additional information from us, please do not hesitate to let me know.

**Background information:**

*On February 28, the President issued an Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the 'Waters of the United States' Rule." The EO states that it is in the national interest to ensure that the nation's navigable waters are kept free from pollution, while at the same time promoting economic growth, minimizing regulatory uncertainty, and showing due regard for the roles of the Congress and the states under the Constitution. The EO directs EPA and ACOE: (1) to review the existing Clean Water Rule (CWR) for consistency with these priorities and publish for notice and comment a proposed rule rescinding or revising the rule, as appropriate and consistent with law, and (2) to consider interpreting the term "navigable waters," in a manner consistent with the Scalia opinion in Rapanos v. U.S.*

*The agencies intend to follow an expeditious, two-step process that will provide certainty across the country: (1) an initial rulemaking to rescind the 2015 rule and reinstate the regulatory approach that, except for a brief two-month period prior to the Sixth Circuit Court of Appeals' stay of the 2015 rule, has been the regulation in place since 1986, and thus maintains the status quo, and (2) a second rulemaking to revise the definition of waters of the U.S. consistent with direction in the E.O. Justice Scalia's Rapanos opinion indicates Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.*

*OW plans to initiate tribal consultation as early as this week. The tribal consultation will focus solely on the rulemaking to revise the definition of WOUS consistent with direction provided in the February 28 EO, not on the withdrawal of the current CWR.*

Thank you,

Karen Gude  
Tribal Program Coordinator (detail)  
U.S. EPA/Office of Water  
Phone: (202) 564-0831



**To:** Goodin, John[Goodin.John@epa.gov]  
**From:** Eisenberg, Mindy  
**Sent:** Wed 4/26/2017 12:37:51 PM  
**Subject:** FW: WOTUS Deliberative Process / attorney work product Ex. 5

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
eisenberg.mindy@epa.gov

---

**From:** Wehling, Carrie  
**Sent:** Wednesday, April 26, 2017 8:35 AM  
**To:** Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Downing, Donna <Downing.Donna@epa.gov>  
**Subject:** FW: WOTUS Deliberative Process / attorney work product Ex. 5

FYI...

Caroline (Carrie) Wehling  
Assistant General Counsel  
Water Law Office  
U.S. Environmental Protection Agency  
Washington DC 20004  
202-564-5492  
[wehling.carrie@epa.gov](mailto:wehling.carrie@epa.gov)

---

**From:** Wehling, Carrie  
**Sent:** Wednesday, April 26, 2017 8:31 AM  
**To:** Minoli, Kevin <Minoli.Kevin@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>  
**Cc:** Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>  
**Subject:** RE: WOTUS Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

Deliberative Process / attorney work product Ex. 5

Thoughts?

Caroline (Carrie) Wehling  
Assistant General Counsel  
Water Law Office

U.S. Environmental Protection Agency  
Washington DC 20004  
202-564-5492  
[wehling.carrie@epa.gov](mailto:wehling.carrie@epa.gov)

**From:** Wehling, Carrie  
**Sent:** Tuesday, April 25, 2017 10:18 AM  
**To:** Minoli, Kevin <[Minoli.Kevin@epa.gov](mailto:Minoli.Kevin@epa.gov)>; Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Wendelowski, Karyn <[wendelowski.karyn@epa.gov](mailto:wendelowski.karyn@epa.gov)>  
**Cc:** Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Prabhu, Aditi <[Prabhu.Aditi@epa.gov](mailto:Prabhu.Aditi@epa.gov)>  
**Subject:** WOTUS - **Deliberative Process / attorney work product Ex. 5**

Thanks, Kevin.

**Deliberative Process / attorney work product Ex. 5**

Thanks.

Carrie

**Deliberative Process / attorney work product Ex. 5**

**Deliberative Process / attorney work product Ex. 5**

**Deliberative Process / attorney work product Ex. 5**

**Deliberative Process / attorney work product Ex. 5**

**Deliberative Process / attorney work product Ex. 5**

Caroline (Carrie) Wehling  
Assistant General Counsel  
Water Law Office  
U.S. Environmental Protection Agency  
Washington DC 20004  
202-564-5492  
[wehling.carrie@epa.gov](mailto:wehling.carrie@epa.gov)

---

**From:** Minoli, Kevin  
**Sent:** Tuesday, April 25, 2017 10:04 AM  
**To:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Wendelowski, Karyn <[wendelowski.karyn@epa.gov](mailto:wendelowski.karyn@epa.gov)>  
**Cc:** Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Prabhu, Aditi <[Prabhu.Aditi@epa.gov](mailto:Prabhu.Aditi@epa.gov)>  
**Subject:** My comments on WOTUS

Here they are. Let me know if you can't read them or have questions. Thanks!

Kevin S. Minoli  
Acting General Counsel  
Office of General Counsel  
US Environmental Protection Agency  
Main Office Line: 202-564-8040  
Begin forwarded message:

**From:** "Veney, Carla" <[Veney.Carla@epa.gov](mailto:Veney.Carla@epa.gov)>  
**To:** "Minoli, Kevin" <[Minoli.Kevin@epa.gov](mailto:Minoli.Kevin@epa.gov)>  
**Subject:** pdf

**From:** Nonresponsive Internal URL/ Ex. 6  
**Sent:** Tuesday, April 25, 2017 8:43 AM  
**To:** Veney, Carla <[Veney.Carla@epa.gov](mailto:Veney.Carla@epa.gov)>  
**Subject:**

**To:** Christensen, Damaris[Christensen.Damaris@epa.gov]; Downing, Donna[Downing.Donna@epa.gov]  
**From:** Eisenberg, Mindy  
**Sent:** Mon 4/17/2017 12:29:43 PM  
**Subject:** FW: draft documents for your review  
[draft WOTUS2 tribal consultation letter.docx](#)

Just a couple of edits from OPA, so we are good to go. Please accept and tweak the dates as appropriate, and then I suggest working with OW to have the letter uploaded into CMS for signature.

Thanks!

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

**From:** Ferguson, Lincoln  
**Sent:** Monday, April 17, 2017 8:13 AM  
**To:** Greenwalt, Sarah <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)>; Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Subject:** RE: draft documents for your review

Good morning!

I've attached a copy of the letter with a few minor edits, but keeping the formality of the letter.

Only thing I wasn't sure about is the letter says **Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

---

**From:** Greenwalt, Sarah  
**Sent:** Friday, April 14, 2017 5:18 PM  
**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Cc:** Ferguson, Lincoln <[ferguson.lincoln@epa.gov](mailto:ferguson.lincoln@epa.gov)>  
**Subject:** Re: draft documents for your review

Yes let's do that. Can you forward to him now so he can work on it over the weekend? I think we both believe it should go out as quickly as possible. That way we can get it going first thing on Monday.

I may have mentioned this already, but this one will be auto-penned since the Administrator will be out.

Sent from my iPhone  
On Apr 14, 2017, at 5:13 PM, Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)> wrote:

**Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5 Would it make sense for Lincoln to take a look on Monday and then we can move it forward?

thanks

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290

---

**From:** Greenwalt, Sarah  
**Sent:** Friday, April 14, 2017 4:46 PM  
**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Subject:** Re: draft documents for your review

I'm still caught up in Ryan's office. Can we make sure that this letter mirrors the federalism letter w/r/t the Administrator's voice? Including the form stuff is fine, but I want to make sure we're starting from the one that everyone has already approved and then we're adding Tribe specific stuff on top of that.

Sent from my iPhone

On Apr 14, 2017, at 4:03 PM, Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)> wrote:

Hi Sarah,  
I just wanted to touch base to see if you had any comments on the tribal consultation letter. If you are OK with it, we will route it for the Administrator's signature.

Thanks,  
Mindy

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

**From:** Eisenberg, Mindy  
**Sent:** Wednesday, April 12, 2017 6:27 PM  
**To:** Greenwalt, Sarah <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Shapiro, Mike <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>; Best-Wong, Benita <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>; Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>; Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>; Gude, Karen <[Gude.Karen@epa.gov](mailto:Gude.Karen@epa.gov)>; Ruf, Christine <[Ruf.Christine@epa.gov](mailto:Ruf.Christine@epa.gov)>; Downing, Donna <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>  
**Subject:** draft documents for your review

As promised, attached are draft frequently asked questions and a desk statement focused on our upcoming federalism consultation. You will note in the FAQs that we have identified additional questions that we may want to prepare answers for but have not as yet. We are also working on a set of standard talking points and plan to send them to you tomorrow.

I'm also attaching the coordination and consultation letter for the Administrator's signature, along with a background section and coordination plan that is a typical attachment for all of EPA's tribal consultations. Please note that since the date of signature is uncertain, there are a few places for dates identified by yellow highlighting and this will need to be updated when a signature date is identified (signature starts the coordination period).

Once you have reviewed the letter and are ready for us to move forward, we will upload it into the correspondence system for the Administrator's signature. After signature, the letter and coordination plan will be emailed out to tribes and also mailed by program staff to a list provided by AEIO.

Thanks!  
Mindy

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

<draft WOTUS2 tribal consultation letter.docx>

<Draft WOTUS2 FAQs.docx>

<draft federalism desk statement (002).docx>

**To:** Greenwalt, Sarah[greenwalt.sarah@epa.gov]  
**Cc:** Ferguson, Lincoln[ferguson.lincoln@epa.gov]  
**From:** Eisenberg, Mindy  
**Sent:** Fri 4/14/2017 9:20:33 PM  
**Subject:** RE: draft documents for your review  
[draft WOTUS2 tribal consultation letter.docx](#)

Sounds good.

Lincoln – **Deliberative Process / Ex. 5**  
**Deliberative Process / Ex. 5** The other point is that once the letter is signed, consultation is formally initiated. If you have any questions, just shoot me an email over the weekend.

Thanks,  
Mindy

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

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**Sent:** Friday, April 14, 2017 5:18 PM  
**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Cc:** Ferguson, Lincoln <[ferguson.lincoln@epa.gov](mailto:ferguson.lincoln@epa.gov)>  
**Subject:** Re: draft documents for your review

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Sent from my iPhone  
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**Deliberative Process / Ex. 5**  
**Deliberative Process / Ex. 5** Would it make sense for Lincoln to take a look on Monday and then we can move it forward?

thanks

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

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**Sent:** Friday, April 14, 2017 4:46 PM  
**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>  
**Subject:** Re: draft documents for your review

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Sent from my iPhone

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Mindy

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
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1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

**From:** Eisenberg, Mindy

**Sent:** Wednesday, April 12, 2017 6:27 PM

**To:** Greenwalt, Sarah <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>

**Cc:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Shapiro, Mike <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>; Best-Wong, Benita <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>; Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>; Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>; Gude, Karen <[Gude.Karen@epa.gov](mailto:Gude.Karen@epa.gov)>; Ruf, Christine <[Ruf.Christine@epa.gov](mailto:Ruf.Christine@epa.gov)>; Downing, Donna <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>

**Subject:** draft documents for your review

As promised, attached are draft frequently asked questions and a desk statement focused on our upcoming federalism consultation. You will note in the FAQs that we have identified additional questions that we may want to prepare answers for but have not as yet. We are also working on a set of standard talking points and plan to send them to you tomorrow.

I'm also attaching the coordination and consultation letter for the Administrator's signature, along with a background section and coordination plan that is a typical attachment for all of EPA's tribal consultations. Please note that since the date of signature is uncertain, there are a few places for dates identified by yellow highlighting and this will need to be updated when a signature date is identified (signature starts the coordination period).

Once you have reviewed the letter and are ready for us to move forward, we will upload it into the correspondence system for the Administrator's signature. After signature, the letter and coordination plan will be emailed out to tribes and also mailed by program staff to a list provided by AEIO.

Thanks!

Mindy

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290



[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

<draft WOTUS2 tribal consultation letter.docx>

<Draft WOTUS2 FAQs.docx>

<draft federalism desk statement (002).docx>

Message

**From:** Bowman, Liz [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C3D4D94D3E4B4B1F80904056703EBC80-BOWMAN, ELI]  
**Sent:** 6/7/2017 8:39:05 PM  
**To:** Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**CC:** Graham, Amy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=26722dfde5b34925b0ad9a8dd4aff308-Graham, Amy]; Schwab, Justin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=eed0f609c0944cc2bbdb05df3a10aadb-Schwab, Jus]  
**Subject:** RE: Heads up on WOTUS CFR correction and MEDIA INQUIRY

Just tried you; give me a call whenever you are free. Thanks! Personal Phone / Ex. 6

---

**From:** Fotouhi, David  
**Sent:** Wednesday, June 7, 2017 2:59 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Graham, Amy <graham.amy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>  
**Subject:** Re: Heads up on WOTUS CFR correction and MEDIA INQUIRY

I'm free between 4-5.

My cell is Personal Phone / Ex. 6

Sent from my iPhone

On Jun 7, 2017, at 2:56 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

Okay; can I give you a call in 30? About to step into an interview. What number should I call?

---

**From:** Fotouhi, David  
**Sent:** Wednesday, June 7, 2017 1:54 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>; Graham, Amy <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>  
**Cc:** Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>  
**Subject:** Fwd: Heads up on WOTUS CFR correction and MEDIA INQUIRY

FYI. Let me know if we need to discuss.

Sent from my iPhone

Begin forwarded message:

**From:** "Wehling, Carrie" <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Date:** June 7, 2017 at 12:49:43 PM EDT  
**To:** "Fotouhi, David" <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>, "Minoli, Kevin" <[Minoli.Kevin@epa.gov](mailto:Minoli.Kevin@epa.gov)>, "Schwab, Justin" <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>  
**Cc:** "Kupchan, Simma" <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>, "Neugeboren, Steven" <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>, "Wendelowski, Karyn" <[wendelowski.karyn@epa.gov](mailto:wendelowski.karyn@epa.gov)>  
**Subject:** Heads up on WOTUS CFR correction and MEDIA INQUIRY

Heads up that the OFR is correcting a mistake they made in publishing the CWR in 2015. In one of the places we amended the rule text (as you recall, it's in many places in the CFR), the OFR erroneously added the CWR without taking out the prior language. The OFR is, on its own, publishing a correction tomorrow. We are already, of course, getting inquiries from folks wondering how it's related to the EO and the WOTUS rulemakings (answer: it's not).

Thought you should know in case you get questions. It would normally be a totally routine matter but the unfortunate timing is likely to confuse folks.

Let us know if you need more – the email below has more details if you need it.

Thanks.

Carrie

Caroline (Carrie) Wehling  
Assistant General Counsel  
Water Law Office  
U.S. Environmental Protection Agency  
Washington DC 20004  
202-564-5492  
[wehling.carrie@epa.gov](mailto:wehling.carrie@epa.gov)

---

**From:** Wendelowski, Karyn  
**Sent:** Wednesday, June 07, 2017 12:30 PM  
**To:** Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** Fw: MEDIA INQUIRY - Agri-Pulse RE: WOTUS DUE 1pm TODAY

Looks like OFR moved quickly!

How do these draft answers look?

1. Can you provide the specific language for the definition being removed?

40 C.F.R 232.2 inadvertently contains both the prior definition of "waters of the United States" and the definition promulgated in the 2015 Clean Water Rule. It currently reads:

Waters of the United States means:  
All waters which are currently used,  
were used in the past, or may be susceptible  
to us in interstate or foreign  
commerce, including all waters which  
are subject to the ebb and flow of the  
tide.  
All interstate waters including interstate  
wetlands.  
All other waters, such as intrastate  
lakes, rivers, streams (including intermittent  
streams), mudflats, sandflats,  
wetlands, sloughs, prairie potholes, wet  
meadows, playa lakes, or natural  
ponds, the use, degradation, or destruction  
of which would or could affect  
interstate or foreign commerce including  
any such waters:  
Which are or could be used by interstate  
or foreign travelers for recreational

or other purposes; or  
 From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or  
 Which are used or could be used for industrial purposes by industries in interstate commerce.  
 All impoundments of waters otherwise defined as waters of the United States under this definition;  
 Tributaries of waters identified in paragraphs (g)(1)–(4) of this section;  
 The territorial sea; and  
 Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (q)(1)–(6) of this section.  
 Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Act (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.

Waters of the United States means:  
 (1) For purposes of the Clean Water Act, 33 U.S.C. 1251 et seq. and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term “waters of the United States” means:  
 (i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;  
 (ii) All interstate waters, including interstate wetlands;  
 (iii) The territorial seas;  
 (iv) All impoundments of waters otherwise identified as waters of the United States under this section;  
 (v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;  
 (vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a casespecific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) Prairie potholes. Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) Carolina bays and Delmarva bays. Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) Pocosins. Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) Western vernal pools. Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) Texas coastal prairie wetlands. Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the

100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark.

Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi) of this definition, they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not “waters of the United States” even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding the determination of an area’s status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) Adjacent. The term adjacent means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including

waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark. Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include

all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) Neighboring. The term neighboring means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within

1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) Tributary and tributaries. The terms tributary and tributaries each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) Wetlands. The term wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) Significant nexus. The term significant nexus means that a water, including wetlands, either alone or in combination with other similarly situated

waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term "in the region" means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

- (A) Sediment trapping,
- (B) Nutrient recycling,
- (C) Pollutant trapping, transformation, filtering, and transport,
- (D) Retention and attenuation of flood waters,
- (E) Runoff storage,
- (F) Contribution of flow,
- (G) Export of organic matter,
- (H) Export of food resources, and
- (I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.

(vi) Ordinary high water mark. The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(vii) High tide line. The term high tide line means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

2. What is the purpose of this? This wouldn't happen to be the first part of the "removal and replace" process, would it?

The Office of the Federal Register is simply correcting this inadvertent error and deleting the language of the prior definition which was replaced by the Clean Water Rule. This is not an action by EPA and is not part of the process the agencies are undertaking pursuant to Executive Order 13778.

---

**From:** Eisenberg, Mindy

**Sent:** Wednesday, June 7, 2017 12:15 PM

**To:** Wendelowski, Karyn

**Cc:** Christensen, Damaris

**Subject:** FW: MEDIA INQUIRY - Agri-Pulse RE: WOTUS DUE 1pm TODAY

Hey Karyn,

Would you mind writing a response to explain the situation regarding the CFR mistake that they are correcting?

thanks

Mindy Eisenberg  
Acting Director, Oceans, Wetlands & Communities Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

**From:** Bravo, Antonio

**Sent:** Wednesday, June 07, 2017 12:06 PM

**To:** Eisenberg, Mindy <[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>; Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>

**Cc:** Fuld, John <[Fuld.John@epa.gov](mailto:Fuld.John@epa.gov)>

**Subject:** Fwd: MEDIA INQUIRY - Agri-Pulse RE: WOTUS DUE 1pm TODAY

Can you help?

Sent from my iPhone

Begin forwarded message:

**From:** "Fuld, John" <[Fuld.John@epa.gov](mailto:Fuld.John@epa.gov)>

**Date:** June 7, 2017 at 12:01:52 PM EDT

**To:** "Bravo, Antonio" <[Bravo.Antonio@epa.gov](mailto:Bravo.Antonio@epa.gov)>

**Subject:** FW: MEDIA INQUIRY - Agri-Pulse RE: WOTUS DUE 1pm TODAY

Hey just to let you know this is over there...I HAVE to have this back by 1 pm. It went over at 11:17 am

---

**From:** Fuld, John

**Sent:** Wednesday, June 07, 2017 11:17 AM

**To:** Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>

**Subject:** MEDIA INQUIRY - Agri-Pulse RE: WOTUS DUE 1pm TODAY

<image001.png> **Office of Water**  
**Media Inquiry**

**John W. Fuld, Ph.D.**



**DATE: June 7, 2017**

**OUTLET: Agri-Pulse**

**REPORTER: Steve Davies**

**TOPIC: WOTUS**

**DEADLINE: 1 pm FAST TURN AROUND**

**OW PROGRAM OFFICE:**

**PERTINENT INFORMATION:**

Reporter is trying to get more information on the FR notice scheduled for publication tomorrow and copied below.

**QUESTION:**

1. Can you provide the specific language for the definition being removed?
2. What is the purpose of this? This wouldn't happen to be the first part of the "removal and replace" process, would it?

ENVIRONMENTAL PROTECTION AGENCY 40 CFR Part 232  
404

Program Definitions; Exempt Activities Not Requiring 404  
Permits

**CFR Correction**

In Title 40 of the Code of Federal Regulations, Parts 190 to 259, **revised as of July 1, 2016**, on page 319, in §232.2, the first definition of Waters of the United States is removed.

BILLING CODE 1301-00-D

[FR Doc. 2017-11894 Filed: 6/7/2017 8:45 am; Publication Date: 6/8/2017]

**All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;**

\*\*\*\*\*

\*\*\*\*\*

**INFORMATION PUBLICLY AVAILABLE:** (*LIST  
SOURCE WITH EACH ANSWER*)  
*Web-link or source material.*

\*\*\*\*\*

\*\*\*\*\*

**ANSWERS:**

**John W. Fuld, Ph.D.**

U.S. Media Relations Manager Office of Water

Environmental Protection Agency

1200 Constitution Ave

Washington DC 20460

Office: 202-564-8847

Cell: Personal Phone / Ex. 6

[Fuld.john@epa.gov](mailto:Fuld.john@epa.gov)

<image002.png>

Message

**From:** Bowman, Liz [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C3D4D94D3E4B4B1F80904056703EBC80-BOWMAN, ELI]  
**Sent:** 5/30/2017 11:43:52 PM  
**To:** Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=feba0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** RE: FOR LEGAL REVIEW

Thank you!

---

**From:** Fotouhi, David  
**Sent:** Tuesday, May 30, 2017 7:44 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Subject:** RE: FOR LEGAL REVIEW

I highlighted some, but my comments are all of the bullets.

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Bowman, Liz  
**Sent:** Tuesday, May 30, 2017 7:42 PM  
**To:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>  
**Subject:** RE: FOR LEGAL REVIEW

Thanks – yours are highlighted, right?

---

**From:** Fotouhi, David  
**Sent:** Tuesday, May 30, 2017 7:37 PM  
**To:** Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>; Graham, Amy <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>  
**Subject:** RE: FOR LEGAL REVIEW

Just a few comments:

## Deliberative Process / attorney client Ex. 5

# **Deliberative Process / attorney client Ex. 5**

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976

[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

**From:** Gunasekara, Mandy  
**Sent:** Tuesday, May 30, 2017 6:33 PM  
**To:** Schwab, Justin <[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>; Graham, Amy <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>  
**Subject:** RE: FOR LEGAL REVIEW

# Deliberative Process / Ex. 5

**From:** Schwab, Justin  
**Sent:** Tuesday, May 30, 2017 5:20 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Brown, Byron <[brown.byron@epa.gov](mailto:brown.byron@epa.gov)>; Gunasekara, Mandy <[Gunasekara.Mandy@epa.gov](mailto:Gunasekara.Mandy@epa.gov)>; Bolen, Brittany <[bolen.brittany@epa.gov](mailto:bolen.brittany@epa.gov)>; Wilcox, Jahan <[wilcox.jahan@epa.gov](mailto:wilcox.jahan@epa.gov)>; Graham, Amy <[graham.amy@epa.gov](mailto:graham.amy@epa.gov)>  
**Subject:** Re: FOR LEGAL REVIEW

## Deliberative Process / attorney client Ex. 5

Sent from my iPhone

On May 30, 2017, at 5:01 PM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

Sorry for the quick turn around, but the WSJ wants to editorialize tomorrow on the comments Pruitt made in his meeting with them in NYC. To that regard, we want to provide them with the following details on superfund and Air. We need to get this to them tonight – can you please confirm the numbers below are correct? None of this should be new, we just want to triple confirm. Thanks – Liz

# Deliberative Process / Ex. 5

# **Deliberative Process / Ex. 5**

# **Deliberative Process / Ex. 5**

# **Deliberative Process / Ex. 5**



Liz Bowman  
U.S. Environmental Protection Agency (EPA)  
Deputy Associate Administrator for Public Affairs  
Office: 202-564-3293

Message

**From:** Wendelowski, Karyn [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=1D913E7D7397466A803149761A0BDF18-KWENDELO]  
**Sent:** 5/23/2017 12:27:04 PM  
**To:** Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=febaf0d56aab43f8a9174b18218c1182-Fotouhi, Da]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]  
**CC:** Neugeboren, Steven [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=cfd837ac503949a9820715b53ba921e6-SNEUGEBO]; Wehling, Carrie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e3e55f11fdc7489698be69849b301da6-CWEHLING]  
**Subject:** Fwd: Clean Water Rule (S. Ct.)  
**Attachments:** ENV\_DEFENSE-#806778-v1-CLEAN\_WATER\_RULE\_\_\_\_(proof\_format)\_ENRD\_draft\_Brief\_for\_Respondent\_(re-started\_late\_May\_15).DOCX; ATT00001.htm  
**Flag:** Flag for follow up

All: Here's the draft brief on the CWA jurisdictional issue. Please send me comments by Thursday night and I'll take advantage of Andy's offer and consolidate EPA comments Friday morning.

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Please let me know if there's anything in the draft you'd like to talk through before we send comments.

Thanks,

Karyn

Karyn Wendelowski  
Attorney Advisor  
Office of General Counsel  
(202) 564-5493

Begin forwarded message:

**From:** "Doyle, Andrew (ENRD)" <Andrew.Doyle@usdoj.gov>  
**Date:** May 22, 2017 at 9:59:31 PM EDT  
**To:** "Dona, Amy (ENRD)" <Amy.Dona@usdoj.gov>, "O'Donnell, Jessica (ENRD)" <Jessica.O'Donnell@usdoj.gov>, "Mann, Martha (ENRD)" <Martha.Mann@usdoj.gov>, "Dertke, Daniel (ENRD)" <Daniel.Dertke@usdoj.gov>, "McCune, Devon Lehman (ENRD)" <Devon.McCune@usdoj.gov>, "Lipshultz, Jon (ENRD)" <Jon.Lipshultz@usdoj.gov>, "Boyd, Milt HQ02" <milt.boyd@usace.army.mil>, "Inkelas, Daniel HQ02" <Daniel.Inkelas@usace.army.mil>, "David.R.Cooper@usace.army.mil" <David.R.Cooper@usace.army.mil>, "Bregman, Lauren R CIV USARMY HQDA OGC (US)" <lauren.r.bregman.civ@mail.mil>, "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>, "Wendelowski, Karyn" <wendelowski.karyn@epa.gov>, "Wehling, Carrie" <Wehling.Carrie@epa.gov>, "Neumann, Jennifer Scheller (ENRD)" <Jennifer.Neumann@usdoj.gov>, "Lundman, Robert (ENRD)" <Robert.Lundman@usdoj.gov>, "Kupchan, Simma" <Kupchan.Simma@epa.gov>, "Timbrook, Shahara T (Tennaile) MAJ USARMY USAR LEGAL CMD (US)" <shahara.t.timbrook.mil@mail.mil>, "Catherine.b.roy.mil@mail.mil" <Catherine.b.roy.mil@mail.mil>, "Gunter, David (ENRD)" <David.Gunter2@usdoj.gov>, "Craig.r.schmauder.civ@mail.mil" <Craig.r.schmauder.civ@mail.mil>, "McArdle, Kevin (ENRD)" <Kevin.McArdle@usdoj.gov>  
**Subject:** RE: Clean Water Rule (S. Ct.)

attorney-client privilege; attorney work product; do not disclose

Thank you all for your patience – a draft S. Ct. brief is attached.

**Deliberative Process / Ex. 5**

## Deliberative Process / Ex. 5

Comments, please, by COB this Thursday, May 25 (or, if you need the morning of Friday, May 26, that is okay too). I will then circulate a revised draft on or about the Tuesday after Memorial Day weekend.

---

**From:** Doyle, Andrew (ENRD)

**Sent:** Wednesday, May 17, 2017 11:46 PM

**To:** Dona, Amy (ENRD) <[ADona@ENRD.USDOJ.GOV](mailto:ADona@ENRD.USDOJ.GOV)>; O'Donnell, Jessica (ENRD) <[JO'Donnell@ENRD.USDOJ.GOV](mailto:JO'Donnell@ENRD.USDOJ.GOV)>; Mann, Martha (ENRD) <[MMann@ENRD.USDOJ.GOV](mailto:MMann@ENRD.USDOJ.GOV)>; Dertke, Daniel (ENRD) <[DDERTKE@enrd.usdoj.gov](mailto:DDERTKE@enrd.usdoj.gov)>; McCune, Devon Lehman (ENRD) <[DMcCune@ENRD.USDOJ.GOV](mailto:DMcCune@ENRD.USDOJ.GOV)>; Lipshultz, Jon (ENRD) <[JLipshultz@ENRD.USDOJ.GOV](mailto:JLipshultz@ENRD.USDOJ.GOV)>; 'Boyd, Milt HQ02' <[milt.boyd@usace.army.mil](mailto:milt.boyd@usace.army.mil)>; 'Inkelas, Daniel HQ02' <[Daniel.Inkelas@usace.army.mil](mailto:Daniel.Inkelas@usace.army.mil)>; 'David.R.Cooper@usace.army.mil' <[David.R.Cooper@usace.army.mil](mailto:David.R.Cooper@usace.army.mil)>; 'Bregman, Lauren R CIV USARMY HQDA OGC (US)' <[lauren.r.bregman.civ@mail.mil](mailto:lauren.r.bregman.civ@mail.mil)>; 'Neugeboren, Steven' <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; 'Wendelowski, Karyn' <[wendelowski.karyn@epa.gov](mailto:wendelowski.karyn@epa.gov)>; 'Wehling, Carrie' <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Neumann, Jennifer Scheller (ENRD) <[JNeumann@ENRD.USDOJ.GOV](mailto:JNeumann@ENRD.USDOJ.GOV)>; Lundman, Robert (ENRD) <[RLUNDMAN@enrd.usdoj.gov](mailto:RLUNDMAN@enrd.usdoj.gov)>; 'Kupchan, Simma' <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; 'Timbrook, Shahara T (Tennaile) MAJ USARMY USAR LEGAL CMD (US)' <[shahara.t.timbrook.mil@mail.mil](mailto:shahara.t.timbrook.mil@mail.mil)>; 'Catherine.b.roy.mil@mail.mil' <[Catherine.b.roy.mil@mail.mil](mailto:Catherine.b.roy.mil@mail.mil)>; Gunter, David (ENRD) <[DGunter@ENRD.USDOJ.GOV](mailto:DGunter@ENRD.USDOJ.GOV)>; 'Craig.r.schmauder.civ@mail.mil' <[Craig.r.schmauder.civ@mail.mil](mailto:Craig.r.schmauder.civ@mail.mil)>; McArdle, Kevin (ENRD) <[KMcArdle@ENRD.USDOJ.GOV](mailto:KMcArdle@ENRD.USDOJ.GOV)>

**Subject:** RE: Clean Water Rule (S. Ct.)

Update: I am a bit behind and now expect to circulate a draft by 5/22 with comments due by 5/26. The Court granted us an extension thru 7/28.

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**From:** Doyle, Andrew (ENRD)

**Sent:** Monday, May 08, 2017 1:01 PM

**To:** Dona, Amy (ENRD) <[ADona@ENRD.USDOJ.GOV](mailto:ADona@ENRD.USDOJ.GOV)>; O'Donnell, Jessica (ENRD) <[JO'Donnell@ENRD.USDOJ.GOV](mailto:JO'Donnell@ENRD.USDOJ.GOV)>; Mann, Martha (ENRD) <[MMann@ENRD.USDOJ.GOV](mailto:MMann@ENRD.USDOJ.GOV)>; Dertke, Daniel (ENRD) <[DDERTKE@enrd.usdoj.gov](mailto:DDERTKE@enrd.usdoj.gov)>; McCune, Devon Lehman (ENRD) <[DMcCune@ENRD.USDOJ.GOV](mailto:DMcCune@ENRD.USDOJ.GOV)>; Lipshultz, Jon (ENRD) <[JLipshultz@ENRD.USDOJ.GOV](mailto:JLipshultz@ENRD.USDOJ.GOV)>; 'Boyd, Milt HQ02' <[milt.boyd@usace.army.mil](mailto:milt.boyd@usace.army.mil)>; 'Inkelas, Daniel HQ02' <[Daniel.Inkelas@usace.army.mil](mailto:Daniel.Inkelas@usace.army.mil)>; 'David.R.Cooper@usace.army.mil' <[David.R.Cooper@usace.army.mil](mailto:David.R.Cooper@usace.army.mil)>; 'Bregman, Lauren R CIV USARMY HQDA OGC (US)' <[lauren.r.bregman.civ@mail.mil](mailto:lauren.r.bregman.civ@mail.mil)>; 'Neugeboren, Steven' <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; 'Wendelowski, Karyn' <[wendelowski.karyn@epa.gov](mailto:wendelowski.karyn@epa.gov)>; 'Wehling, Carrie' <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Neumann, Jennifer Scheller (ENRD) <[JNeumann@ENRD.USDOJ.GOV](mailto:JNeumann@ENRD.USDOJ.GOV)>; 'Kupchan, Simma' <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; 'Timbrook, Shahara T (Tennaile) MAJ USARMY USAR LEGAL CMD (US)' <[shahara.t.timbrook.mil@mail.mil](mailto:shahara.t.timbrook.mil@mail.mil)>; 'Catherine.b.roy.mil@mail.mil' <[Catherine.b.roy.mil@mail.mil](mailto:Catherine.b.roy.mil@mail.mil)>; Gunter, David (ENRD) <[DGunter@ENRD.USDOJ.GOV](mailto:DGunter@ENRD.USDOJ.GOV)>; 'Craig.r.schmauder.civ@mail.mil' <[Craig.r.schmauder.civ@mail.mil](mailto:Craig.r.schmauder.civ@mail.mil)>; McArdle, Kevin (ENRD) <[KMcArdle@ENRD.USDOJ.GOV](mailto:KMcArdle@ENRD.USDOJ.GOV)>

**Subject:** RE: Clean Water Rule (S. Ct.)

Hello,

Since I sent you five opening briefs seeking reversal, an amicus brief supporting petitioners was filed (attached).

Right now, we are hoping to send you a draft for review the morning of 5/18 with comments due by cob  
on 5/22

## **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks!

-Andy Doyle

(202) 514-4427

[andrew.doyle@usdoj.gov](mailto:andrew.doyle@usdoj.gov)

Message

---

**From:** Bolen, Brittany [bolen.brittany@epa.gov]  
**Sent:** 5/18/2017 9:39:14 PM  
**To:** Fotouhi, David [fotouhi.david@epa.gov]  
**Subject:** If it's helpful Energy Independence EO Plan  
**Attachments:** image2017-05-12-150104.pdf; ATT00001.txt

Last part lays out our work on reg reform task force pretty well.

Message

**From:** Bolen, Brittany [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=31E872A691114372B5A6A88482A66E48-BOLEN, BRIT]  
**Sent:** 5/16/2017 6:21:19 PM  
**To:** Fotouhi, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=feba0d56aab43f8a9174b18218c1182-Fotouhi, Da]  
**Subject:** Request from Commerce - quick input please  
**Attachments:** task list.pdf  
**Importance:** High  
**Flag:** Follow up

David – sorry to bother you with this, but I could use your guidance.

**Attorney Client / Ex. 5**

# Attorney Client / Ex. 5

Message

**From:** Schwab, Justin [schwab.justin@epa.gov]  
**Sent:** 5/8/2017 11:59:53 PM  
**To:** Fotouhi, David [fotouhi.david@epa.gov]  
**Subject:** FW: May 9-15, 2017 | Line x Line  
**Attachments:** EPA Cabinet 30 Day Report 5.9.17.docx

If you haven't already can you do the OGC piece? The muse has struck and I'm in the zone. I will owe you enormously for this

---

**From:** Jackson, Ryan  
**Sent:** Monday, May 8, 2017 7:58 PM  
**To:** Hupp, Sydney <hupp.sydney@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>  
**Subject:** RE: May 9-15, 2017 | Line x Line

All, attached is the 30 day outlook which needed your contributions by COB today. Many things are missing.

This needs your immediate attention.

Also, some of the items will be duplicated until they fall off the 30 day, but this needs your contributions ASAP.

Additionally, your attention is required on providing initiatives, guidance, rulemaking, and other principal projects to the Office of Policy. This takes no time at all when each of us individually contributes.

I'm expecting a new sheet with everyone's stuff for the meeting Wednesday morning.

Thank you.

---

**From:** Hupp, Sydney  
**Sent:** Monday, May 8, 2017 6:32 PM  
**To:** Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Caldwell, James <Caldwell.James@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Jennifer L. <Jackson.Jennifer@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>;  
**Ex. 6, 7(C)** Personal Info in Enforcement Records/ Ex. 7C  
**Ex. 6, 7(C)**

Perrotta, Pasquale <Perrotta.Pasquale@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; [Personal Info in Enforcement Records/ Ex. 7C] Su, Wendy <su.wendy@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>; Woodward, Cheryl <Woodward.Cheryl@epa.gov>  
**Subject:** May 9-15, 2017 | Line x Line

Hey everyone- Below are the upcoming meetings needing a staffer, please let me know which ones you should be in.

**Meeting with Shell (Monday, May 15, 12:00PM)**

Topic: (requested)

**Meeting with Chemours' President and CEO, Mark Vergnano (Monday, May 15, 2:15PM)**

Topic: Introduce Chemours to the Administrator; Share what Chemours is doing to put American innovation to work to create global, market-leading product opportunities, which support new U.S. manufacturing investments and jobs; Share Chemours' desire to see EPA maintain consistency vis-à-vis HFCs in order to help protect U.S. leadership in this space and protect significant new U.S. investments the company has made in reliance on previous EPA policy decisions; Share Chemours' desire to see EPA implement the Lautenberg Chemical Safety Act in a fair, efficient, and reasonable manner, consistent with the new law and Congressional intent.

Location: Administrator's Office

***Additionally, Chief of Staff meeting in the morning is cancelled.***

Have a good night!

---

**Sydney Hupp**

Executive Scheduler  
Office of the Administrator

[Personal Phone / Ex. 6] (c)



**To:** Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Greenwalt, Sarah  
**Sent:** Thur 4/27/2017 2:27:43 PM  
**Subject:** Re: E&E News: EPA 'disregarded' Army Corps' WOTUS concerns – ex official, 4/27/17

Just to clarify, **Deliberative Process /attorney client Ex. 5** correct?

Sent from my iPhone

On Apr 27, 2017, at 10:12 AM, Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)> wrote:

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** So, Katherine  
**Sent:** Thursday, April 27, 2017 9:50 AM  
**To:** AO OPA OMR CLIPS <[AO\\_OPA\\_OMR\\_CLIPS@epa.gov](mailto:AO_OPA_OMR_CLIPS@epa.gov)>  
**Cc:** So, Katherine <[so.katherine@epa.gov](mailto:so.katherine@epa.gov)>  
**Subject:** E&E News: EPA 'disregarded' Army Corps' WOTUS concerns – ex official, 4/27/17

**E&E News**

<https://www.eenews.net/eedaily/2017/04/27/stories/1060053666>

**EPA 'disregarded' Army Corps' WOTUS concerns – ex official**

By Ariel Wittenberg 4/27/17

Senate Environment and Public Works Committee members battled along party lines yesterday over the contentious Obama administration rule aimed at clarifying what waterways and wetlands get automatic Clean Water Act protection.

Republicans sought to undermine the Clean Water Rule's scientific and legal underpinnings while Democrats defended the rule with a 2006 opinion in *Rapanos v. United States* by Supreme Court Justice Anthony Kennedy on which it was based.

A key Republican witness was retired Army Corps of Engineers Maj. Gen. John Peabody, who wrote internal memos in 2015 saying the agency had been "marginalized from substantive participation" while the rule was being finalized in 2014 by political appointees and U.S. EPA (*Greenwire*, July 27, 2015).

Peabody told the committee that EPA "completely disregarded" Army Corps career staffers' "serious and significant concerns with the viability of the rule from a factual, scientific, technical and legal basis."

Chairman John Barrasso (R-Wyo.) seized on Peabody's comment and bore in: "Is it true," he asked, "that the Army Corps was really cut out of the process and that you asked that the corps' name be taken out of the technical analysis?"

Peabody: "The corps did not believe at that time ... that our judgment and experience was adequately included into the rule."

When Sen. Mike Rounds (R-S.D.) asked for examples of where EPA split from the corps, Peabody pointed to how the rule — which is also called Waters of the U.S., or WOTUS — treats "geographically isolated wetlands."

While the regulation, which has been stayed by a federal court pending litigation, has broad categories of waterways that would be automatically included in or excluded from Clean Water Act jurisdiction, isolated wetlands would be

considered on a case-by-case basis.

To be protected under the Clean Water Act, isolated wetlands would have to meet two requirements. First, EPA and the Army Corps would have to meet criteria set up by Kennedy's 2006 opinion that prove the isolated wetlands have a "significant nexus" to traditionally navigable waters. The justice wrote that such wetlands lead to the larger waterway by surface flow or chemical or biological connections. The isolated wetlands would also have to be located either within the 100-year floodplain of a traditionally navigable water or within 4,000 feet of one.

Peabody said that while he believes EPA included those distances to "provide clarity," they could not be scientifically supported.

"The challenge is that under the 'significant nexus' standard, which legal counsel told me is the overriding standard, you cannot have a clear distinction, such as a fixed distance not supported in underlying science," he said. "I was concerned that made the rule legally vulnerable."

While Republicans used Peabody's criticisms to show the rule was — as Barrasso put — based on an "arbitrary number," Peabody's 2015 memo suggests it may be too restrictive.

"The Corps believes that the 4,000-feet limit on jurisdiction would cause significant adverse environmental effects as a result of the loss of jurisdiction over a substantial amount of jurisdictional 'waters' based on the Corps' experience in implementing the [Clean Water Act] 404 program and performing the majority of jurisdictional determinations under the [Clean Water Act]," Peabody's [memo](#) states.

The Trump administration is trying to repeal and replace the regulation. To do so, the administration would need to crack the scientific and legal basis for the Obama rule ([Greenwire](#), April 20).

### **'That is the law'**

Democrats focused yesterday on defending WOTUS's legal justification.

The *Rapanos* case was famously messy and resulted in a muddled 4-1-4 split decision. At issue was Michigan landowner John Rapanos' bid to develop a property that was designated a wetland, with EPA seeking to bring civil and criminal enforcement actions because he didn't have a permit.

Kennedy's stand-alone opinion agreed with the conservatives that Rapanos was in the right, but he disagreed with them about the scope of the Clean Water Act. He stated that waters must have a "significant nexus" to navigable rivers and seas, which could include not just surface connections but also biological or chemical ones.

Conservative Justice Antonin Scalia, who found in Rapanos' favor, argued for a more restrictive view of federal jurisdiction for himself and the three other conservatives, Chief Justice John Roberts and Justices Clarence Thomas and Samuel Alito. The four liberal justices argued for a far more expansive vision. Scalia died last year.

While federal courts have agreed that Kennedy's opinion is the overriding one, the Trump administration has said it wants to replace WOTUS with a regulation based on Scalia's opinion in the same case.

During the hearing yesterday, Sen. Sheldon Whitehouse (D-R.I.) attempted to call out Republicans' favoritism for Scalia during an exchange with EPA's former deputy assistant administrator for water, Ken Kopocis.

Whitehouse asked Kopocis about how the EPA should treat someone "dumping pollutants" into a hypothetical, seasonal stream where water only flowed after a large rainstorm.

"If a foreseeable rain is going to wash a known pollutant into navigable waters, do you think a rule that failed to regulate that would pass the significant nexus test?" he asked.

"No, sir, it would not," Kopocis replied. "That concept is specifically rejected by Justice Kennedy, who said it made little sense."

Whitehouse responded: "So, a lot of the complaining about the WOTUS rule here is actually complaining about the

'significant nexus' test, but that is the law."

Katherine So  
Office of Media Relations Intern  
U.S. Environmental Protection Agency  
Telephone: (202)-564-4511  
[so.katherine@epa.gov](mailto:so.katherine@epa.gov)

**To:** Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Tue 4/25/2017 3:07:10 PM  
**Subject:** my WOTUS redline  
[EDIT WOTUS step 1 preamble draft 4-24.docx](#)

Please find attached

**To:** Bowman, Liz[Bowman.Liz@epa.gov]  
**Cc:** Freire, JP[Freire.JP@epa.gov]; Konkus, John[konkus.john@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Hull, George[Hull.George@epa.gov]  
**From:** Valentine, Julia  
**Sent:** Wed 4/12/2017 2:15:04 PM  
**Subject:** RE: WOTUS plans -- E&E News  
[WOTUS Letter.pdf](#)

Hi Liz- Spoke with Mindy Eisenberg, Acting Director of the Wetlands Office who attended the meeting yesterday in place of Benita Best-Wong. Mindy spoke directly from the attached letter from the Administrator sent Monday to various water trade associations. It lays out next steps for WOTUS.

Mindy said she spoke "straight from the letter," and "reemphasized the importance of our state partners." Since the letter hasn't been in the press yet, the reporter thinks Mindy's comments yesterday is a great scoop or gossip.

Call me or George if you have any questions. 564-2663

---

**From:** Bowman, Liz  
**Sent:** Wednesday, April 12, 2017 9:27 AM  
**To:** Valentine, Julia <Valentine.Julia@epa.gov>  
**Cc:** Freire, JP <Freire.JP@epa.gov>; Konkus, John <konkus.john@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>  
**Subject:** FW: WOTUS plans -- E&E News

Please figure out went to this meeting and let us know as soon as possible. We need to know what they said and why they said it, so that we can respond. Thank you – Liz

---

**From:** Ariel Wittenberg [<mailto:awittenberg@eenews.net>]  
**Sent:** Wednesday, April 12, 2017 8:20 AM  
**To:** Press <[Press@epa.gov](mailto:Press@epa.gov)>  
**Cc:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>; Konkus, John <[konkus.john@epa.gov](mailto:konkus.john@epa.gov)>  
**Subject:** WOTUS plans -- E&E News

Hi John and Nancy,

Was hoping to confirm something I've been hearing from a few people that someone from the EPA spoke at a meeting of the Association of State Wetland Managers yesterday and discussed plans to repeal and revise WOTUS. What I've heard is that someone from EPA Headquarters (It was scheduled to be Benita Best-Wong but someone else came instead) said that the EPA intends to hold two separate rulemaking processes to fulfill President Trump's Executive Order. The first would issue a proposal to rescind WOTUS and replace it with the 1986 regulations. The second would begin a new rulemaking to issue a new definition of "Waters of the U.S.". I was hoping you could please confirm this and also tell me who it was that replaced Benita at the meeting. Also, any further comment would be appreciated. My deadline is 11:30 today,

Thanks,

Ariel

Ariel Wittenberg  
E&E News reporter  
[awittenberg@eenews.net](mailto:awittenberg@eenews.net)

**Ex. 6**  
[@arielwittenberg](#)

**E&E NEWS**  
122 C Street NW 7th Floor Washington, DC 20001  
[www.eenews.net](http://www.eenews.net) | [@EENewsUpdates](#)



**To:** Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Greenwalt, Sarah  
**Sent:** Wed 4/12/2017 3:05:05 AM  
**Subject:** Fwd: For Review - draft materials for 10:00 WOTUS  
[Step 1 Rule Draft - 4-11-2017.docx](#)  
[ATT00001.htm](#)  
[WOTUS2 Comms One-Pager 4-11-17.docx](#)  
[ATT00002.htm](#)

Sorry, thought I had sent.

Sent from my iPhone

Begin forwarded message:

**From:** "Shapiro, Mike" <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>  
**Date:** April 11, 2017 at 9:40:31 PM EDT  
**To:** "Greenwalt, Sarah" <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)>  
**Subject:** FW: For Review - draft materials for 10:00 WOTUS

Hi Sara,

Sorry this is getting to you so late. I just got back to work for my evening email catch-up. There may be some further edits to these papers, but I think they will do for your review if you have time.

Mike

Michael Shapiro  
Acting Assistant Administrator, Office of Water  
US EPA, 4101M  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
202-564-5700

---

**From:** Eisenberg, Mindy  
**Sent:** Tuesday, April 11, 2017 7:14 PM  
**To:** Shapiro, Mike <[Shapiro.Mike@epa.gov](mailto:Shapiro.Mike@epa.gov)>; Best-Wong, Benita <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>  
**Cc:** Peck, Gregory <[Peck.Gregory@epa.gov](mailto:Peck.Gregory@epa.gov)>; Kwok, Rose <[Kwok.Rose@epa.gov](mailto:Kwok.Rose@epa.gov)>; Christensen, Damaris <[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>; Downing, Donna <[Downing.Donna@epa.gov](mailto:Downing.Donna@epa.gov)>; Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>  
**Subject:** For Review - draft materials for 10:00 WOTUS

Mike and Benita,

Sorry for the late hour. Attached are the latest drafts of the step 1 rule and comms/outreach considerations. We plan to discuss both during the meeting tomorrow, as well as touch on the draft step 1 preamble that we're not quite ready to hand out. Please let me know if you have any comments or concerns, and we will circulate updated versions to the invitees before the meeting.

Thanks,  
Mindy

Mindy Eisenberg  
Acting Director, Wetlands Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290





**To:** Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Greenwalt, Sarah  
**Sent:** Thur 4/6/2017 12:24:53 AM  
**Subject:** Fwd: WOTUS messaging  
DRAFT FedConInvite2WOTUS2.docx  
ATT00001.htm

Sent from my iPhone

Begin forwarded message:

**From:** "Goodin, John" <Goodin.John@epa.gov>  
**Date:** April 5, 2017 at 5:56:04 PM EDT  
**To:** "Greenwalt, Sarah" <greenwalt.sarah@epa.gov>, "Ferguson, Lincoln" <ferguson.lincoln@epa.gov>  
**Cc:** "Freire, JP" <Freire.JP@epa.gov>, "Dravis, Samantha" <dravis.samantha@epa.gov>, "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>  
**Subject:** RE: WOTUS messaging

Folks—attached for your review and edits is a draft Federalism invite letter that has been reviewed by OCIR, OGC, OW, and Army staff. Note that although the letter highlights one meeting time, we currently are holding several rooms and timeslots the week of Deliberative Process / Ex. 5 (see below), if there is a preferred time that allows the Administrator or you to kick-off/participate.

Thanks  
John

Deliberative Process / Ex. 5

---

**From:** Greenwalt, Sarah  
**Sent:** Wednesday, April 05, 2017 2:38 PM  
**To:** Goodin, John <Goodin.John@epa.gov>  
**Cc:** Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>  
**Subject:** Re: WOTUS messaging

That's great, thanks!

Sent from my iPhone

On Apr 5, 2017, at 1:00 PM, Goodin, John <Goodin.John@epa.gov> wrote:

Thanks, Sarah. We'll send the revised draft forward to Lincoln et al. NLT COB. We're quickly circulating a revised version to staff at OGC, OCIR, and Army for input, as discussed this morning.

Thanks  
John

---

**From:** Greenwalt, Sarah  
**Sent:** Wednesday, April 05, 2017 12:23 PM  
**To:** Ferguson, Lincoln <ferguson.lincoln@epa.gov>  
**Cc:** Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** RE: WOTUS messaging

John will circulate once that has been added in.

**Sarah A. Greenwalt**

Senior Advisor to the Administrator  
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell: **Ex. 6**

[Greenwalt.Sarah@epa.gov](mailto:Greenwalt.Sarah@epa.gov)

---

**From:** Ferguson, Lincoln

**Sent:** Wednesday, April 5, 2017 11:41 AM

**To:** Greenwalt, Sarah <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)>

**Cc:** Freire, JP <[Freire.JP@epa.gov](mailto:Freire.JP@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>; Jackson, Ryan  
<[jackson.ryan@epa.gov](mailto:jackson.ryan@epa.gov)>; Dravis, Samantha <[dravis.samantha@epa.gov](mailto:dravis.samantha@epa.gov)>

**Subject:** Re: WOTUS messaging

Happy to help!

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Sent from my iPhone

On Apr 5, 2017, at 11:33 AM, Greenwalt, Sarah <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)> wrote:

JP and Lincoln,

**Deliberative Process / Ex. 5**

Thanks!

**Sarah A. Greenwalt**

Senior Advisor to the Administrator  
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell: **Ex. 6**

[Greenwalt.Sarah@epa.gov](mailto:Greenwalt.Sarah@epa.gov)

**To:** Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]  
**From:** Schwab, Justin  
**Sent:** Tue 4/4/2017 10:24:23 PM  
**Subject:** Fwd: WOTUS two-step  
[WOTUS two step.pdf](#)  
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

**From:** "Wood, Jeffrey (ENRD)" <Jeffrey.Wood@usdoj.gov>  
**Date:** April 4, 2017 at 5:30:55 PM EDT  
**To:** "Schwab, Justin" <schwab.justin@epa.gov>  
**Cc:** "Middleton, Brandon (ENRD)" <Brandon.Middleton@usdoj.gov>  
**Subject:** WOTUS two-step

Attorney Client Communication – Attorney Work Product – Privileged & Confidential – FOIA Exempt

**Deliberative Process / ACP / AWP Ex. 5**

Message

**From:** Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]  
**Sent:** 6/7/2017 7:03:31 PM  
**To:** Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]  
**Subject:** Fwd: FOR REVIEW: draft economic analysis and preamble  
**Attachments:** Economic Analysis of Proposed WOTUS Step 1.internal review draft.consolidated.CLEAN.v2.docx; ATT00001.htm; WOTUS Draft Proposed Rule incorporating OMB comments and econ\_6-7-2017.docx; ATT00002.htm

FYI

Sent from my iPhone

Begin forwarded message:

**From:** "Eisenberg, Mindy" <Eisenberg.Mindy@epa.gov>  
**Date:** June 7, 2017 at 3:02:44 PM EDT  
**To:** "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>, "Peck, Gregory" <Peck.Gregory@epa.gov>, "Goodin, John" <Goodin.John@epa.gov>, "Downing, Donna" <Downing.Donna@epa.gov>, "Christensen, Damaris" <Christensen.Damaris@epa.gov>, "Fotouhi, David" <fotouhi.david@epa.gov>, "Schwab, Justin" <schwab.justin@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Neugeboren, Steven" <Neugeboren.Steven@epa.gov>, "Wendelowski, Karyn" <wendelowski.karyn@epa.gov>, "Wehling, Carrie" <Wehling.Carrie@epa.gov>, "Kupchan, Simma" <Kupchan.Simma@epa.gov>, "McGartland, Al" <McGartland.Al@epa.gov>, "Moyer, Jennifer A CIV USARMY CEHQ (US)" <Jennifer.A.Moyer@usace.army.mil>, "Stacey.M.Jensen@usace.army.mil" <Stacey.M.Jensen@usace.army.mil>, Cindy Barger <cindy.s.barger.civ@mail.mil>, "craig.r.schmauder.civ@mail.mil" <craig.r.schmauder.civ@mail.mil>, "David.F.Dale@usace.army.mil" <David.F.Dale@usace.army.mil>  
**Cc:** "Hewitt, Julie" <Hewitt.Julie@epa.gov>, "Massey, Matt" <Massey.Matt@epa.gov>, "Doley, Todd" <Doley.Todd@epa.gov>, "Evalenko, Sandy" <Evalenko.Sandy@epa.gov>, "Guignet, Dennis" <Guignet.Dennis@epa.gov>, "Marten, Alex" <Marten.Alex@epa.gov>  
**Subject:** FOR REVIEW: draft economic analysis and preamble

Hi All,

Attached for your quick review are the draft economic analysis and preamble with conforming changes. Sorry for the quick turnaround, but we are asking you to review and provide significant comments/show stoppers by 5:00 today. I'm attaching both documents, but preference is for using the sharepoint – links below.

If you are sending comments outside of sharepoint, please send edits to the econ analysis to Julie Hewitt and cc me. For preamble, please send to me.

**Nonresponsive Internal URL/ Ex. 6**

**Nonresponsive Internal URL/ Ex. 6**

Thanks!!

Mindy Eisenberg  
Acting Director, Oceans, Wetlands & Communities Division  
Office of Wetlands, Oceans and Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode 4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

Message

---

**From:** Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]  
**Sent:** 6/7/2017 6:07:53 PM  
**To:** Greenwalt, Sarah [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c13775b8f424e90802669b87b135024-Greenwalt,]  
**Subject:** Re: Heads up on WOTUS CFR correction and MEDIA INQUIRY



Sent from my iPhone

On Jun 7, 2017, at 2:07 PM, Greenwalt, Sarah <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)> wrote:

You are awesome

Sent from my iPhone

On Jun 7, 2017, at 8:00 PM, Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)> wrote:

Thanks! I looped her in and will coordinate with her if she has questions.

Sent from my iPhone

On Jun 7, 2017, at 1:59 PM, Greenwalt, Sarah <[greenwalt.sarah@epa.gov](mailto:greenwalt.sarah@epa.gov)> wrote:

Thanks David.

Liz, wanted to make you aware of this as well.

Sent from my iPhone

On Jun 7, 2017, at 7:53 PM, Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)> wrote:

FYI

Sent from my iPhone

Begin forwarded message:

**From:** "Wehling, Carrie"  
<[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Date:** June 7, 2017 at 12:49:43 PM  
EDT  
**To:** "Fotouhi, David"  
<[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>, "Minoli,  
Kevin" <[Minoli.Kevin@epa.gov](mailto:Minoli.Kevin@epa.gov)>,  
"Schwab, Justin"  
<[schwab.justin@epa.gov](mailto:schwab.justin@epa.gov)>

**Cc:** "Kupchan, Simma"  
<Kupchan.Simma@epa.gov>,  
"Neugeboren, Steven"  
<Neugeboren.Steven@epa.gov>,  
"Wendelowski, Karyn"  
<wendelowski.karyn@epa.gov>

**Subject: Heads up on WOTUS  
CFR correction and MEDIA  
INQUIRY**

Heads up that the OFR is correcting a mistake they made in publishing the CWR in 2015. In one of the places we amended the rule text (as you recall, it's in many places in the CFR), the OFR erroneously added the CWR without taking out the prior language. The OFR is, on its own, publishing a correction tomorrow. We are already, of course, getting inquiries from folks wondering how it's related to the EO and the WOTUS rulemakings (answer: it's not).

Thought you should know in case you get questions. It would normally be a totally routine matter but the unfortunate timing is likely to confuse folks.

Let us know if you need more – the email below has more details if you need it.

Thanks.

Carrie

Caroline (Carrie) Wehling  
Assistant General Counsel  
Water Law Office  
U.S. Environmental Protection Agency  
Washington DC 20004  
202-564-5492  
[wehling.carrie@epa.gov](mailto:wehling.carrie@epa.gov)

---

**From:** Wendelowski, Karyn  
**Sent:** Wednesday, June 07, 2017 12:30 PM  
**To:** Wehling, Carrie  
<[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>;  
Neugeboren, Steven  
<[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>;  
Kupchan, Simma

<Kupchan.Simma@epa.gov>

**Subject:** Fw: MEDIA INQUIRY - Agri-Pulse  
**RE:** WOTUS DUE 1pm TODAY

Looks like OFR moved quickly!

How do these draft answers look?

1. <!--[if !supportLists]-><!--[endif]-->Can you provide the specific language for the definition being removed?

40 C.F.R 232.2 inadvertently contains both the prior definition of "waters of the United States" and the definition promulgated in the 2015 Clean Water Rule. It currently reads:

Waters of the United States means:  
All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.  
All interstate waters including interstate wetlands.  
All other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would or could affect interstate or foreign commerce including any such waters:  
Which are or could be used by interstate or foreign travelers for recreational or other purposes; or  
From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or  
Which are used or could be used for industrial purposes by industries in interstate commerce.  
All impoundments of waters otherwise defined as waters of the United States under this definition;  
Tributaries of waters identified in paragraphs (g)(1)–(4) of this section;  
The territorial sea; and  
Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (q)(1)–(6) of this section.  
Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Act (other than cooling ponds as defined in 40 CFR 123.11(m) which also meet the criteria of this definition) are not waters of the United States.

Waters of the United States means:  
(1) For purposes of the Clean Water Act, 33 U.S.C. 1251 et seq. and its implementing regulations, subject to the exclusions in paragraph (2) of this definition, the term "waters of the United States" means:  
(i) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;



(ii) All interstate waters, including interstate wetlands;

(iii) The territorial seas;

(iv) All impoundments of waters otherwise identified as waters of the United States under this section;

(v) All tributaries, as defined in paragraph (3)(iii) of this definition, of waters identified in paragraphs (1)(i) through (iii) of this definition;

(vi) All waters adjacent to a water identified in paragraphs (1)(i) through (v) of this definition, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters;

(vii) All waters in paragraphs (1)(vii)(A) through (E) of this definition where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. The waters identified in each of paragraphs (1)(vii)(A) through (E) of this definition are similarly situated and shall be combined, for purposes of a significant nexus analysis, in the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi), they are an adjacent water and no case-specific significant nexus analysis is required.

(A) Prairie potholes. Prairie potholes are a complex of glacially formed wetlands, usually occurring in depressions that lack permanent natural outlets, located in the upper Midwest.

(B) Carolina bays and Delmarva bays. Carolina bays and Delmarva bays are ponded, depressional wetlands that occur along the Atlantic coastal plain.

(C) Pocosins. Pocosins are evergreen shrub and tree dominated wetlands found predominantly along the Central Atlantic coastal plain.

(D) Western vernal pools. Western vernal pools are seasonal wetlands located in parts of California and associated with topographic depression, soils with poor drainage, mild, wet winters and hot, dry summers.

(E) Texas coastal prairie wetlands. Texas coastal prairie wetlands are freshwater wetlands that occur as a mosaic of depressions, ridges, intermound flats, and mima mound wetlands located along the Texas Gulf Coast.

(viii) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (1)(i) through (iii) of this definition. For waters determined to have a significant nexus, the entire water is a water of the United States if a portion is located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (iii) of this definition or within 4,000 feet of the high tide line or ordinary high water mark. Waters identified in this paragraph shall not be combined with waters identified in paragraph (1)(vi) of this definition when performing a significant nexus analysis. If waters identified in this paragraph are also an adjacent water under paragraph (1)(vi) of this definition, they are an adjacent water and no case-specific significant nexus analysis is required.

(2) The following are not “waters of the United States” even where they otherwise meet the terms of paragraphs (1)(iv) through (viii) of this definition.

(i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act are not waters of the United States.

(ii) Prior converted cropland. Notwithstanding

the determination of an area's status as prior converted cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA.

(iii) The following ditches:

(A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(C) Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) The following features:

(A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;

(B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;

(C) Artificial reflecting pools or swimming pools created in dry land;

(D) Small ornamental waters created in dry land;

(E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;

(F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways; and

(G) Puddles.

(v) Groundwater, including groundwater drained through subsurface drainage systems.

(vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

(vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

(3) In this definition, the following terms apply:

(i) Adjacent. The term adjacent means bordering, contiguous, or neighboring a water identified in paragraphs (1)(i) through (v) of this definition, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like. For purposes of adjacency, an open water such as a pond or lake includes any wetlands within or abutting its ordinary high water mark.

Adjacency is not limited to waters located laterally to a water identified in paragraphs (1)(i) through (v) of this definition. Adjacent waters also include

all waters that connect segments of a water identified in paragraphs (1)(i) through (v) or are located at the head of a water identified in paragraphs (1)(i) through (v) of this definition and are bordering, contiguous, or neighboring such water. Waters being used for established normal farming, ranching, and silviculture activities (33 U.S.C. 1344(f)) are not adjacent.

(ii) Neighboring. The term neighboring means:

(A) All waters located within 100 feet of the ordinary high water mark of a water identified in paragraphs (1)(i) through (v) of this definition. The entire water is neighboring if a portion is located within 100 feet of the ordinary high water mark;

(B) All waters located within the 100-year floodplain of a water identified in paragraphs (1)(i) through (v) of this definition and not more than 1,500 feet from the ordinary high water mark of such water. The entire water is neighboring if a portion is located within 1,500 feet of the ordinary high water mark and within the 100-year floodplain;

(C) All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (1)(i) or (1)(iii) of this definition, and all waters within 1,500 feet of the ordinary high water mark of the Great Lakes. The entire water is neighboring if a portion is located within 1,500 feet of the high tide line or within 1,500 feet of the ordinary high water mark of the Great Lakes.

(iii) Tributary and tributaries. The terms tributary and tributaries each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (1)(iv) of this definition), to a water identified in paragraphs (1)(i) through (iii) of this definition that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark. These physical indicators demonstrate there is volume, frequency, and duration of flow sufficient to create a bed and banks and an ordinary high water mark, and thus to qualify as a tributary. A tributary can be a natural, man-altered, or man-made water and includes waters such as rivers, streams, canals, and ditches not excluded under paragraph (2) of this definition. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if, for any length, there are one or more constructed breaks (such as bridges, culverts, pipes, or dams), or one or more natural breaks (such as wetlands along the run of a stream, debris piles, boulder fields, or a stream that flows underground) so long as a bed and banks and an ordinary high water mark can be identified upstream of the break. A water that otherwise qualifies as a tributary under this definition does not lose its status as a tributary if it contributes flow through a water of the United States that does not meet the definition of tributary or through a non-jurisdictional water to a water identified in paragraphs (1)(i) through (iii) of this definition.

(iv) Wetlands. The term wetlands means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(v) Significant nexus. The term significant nexus means that a water, including wetlands, either alone or in combination with other similarly situated waters in the region, significantly affects the chemical, physical, or biological integrity of a water identified in paragraphs (1)(i) through (iii) of this definition. The term "in the region" means the watershed that drains to the nearest water identified in paragraphs (1)(i) through (iii) of this definition. For an effect to be significant, it must be more than speculative or insubstantial. Waters are similarly situated when they function alike and are sufficiently close to function together in affecting downstream waters. For purposes of determining whether or not a water has a significant nexus, the water's effect on downstream (1)(i) through (iii) waters shall be assessed by evaluating the aquatic functions identified in paragraphs (3)(v)(A) through (I) of this definition. A water has a significant nexus when any single function or combination of functions performed by the water, alone or together with similarly situated waters in the region, contributes significantly to the chemical, physical, or biological integrity of the nearest water identified in paragraphs (1)(i) through (iii) of this definition. Functions relevant to the significant nexus evaluation are the following:

- (A) Sediment trapping,
- (B) Nutrient recycling,
- (C) Pollutant trapping, transformation, filtering, and transport,
- (D) Retention and attenuation of flood waters,

(E) Runoff storage,  
(F) Contribution of flow,  
(G) Export of organic matter,  
(H) Export of food resources, and  
(I) Provision of life cycle dependent aquatic habitat (such as foraging, feeding, nesting, breeding, spawning, or use as a nursery area) for species located in a water identified in paragraphs (1)(i) through (iii) of this definition.  
(vi) Ordinary high water mark. The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.  
(vii) High tide line. The term high tide line means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

2. <!--[if !supportLists]-><!--[endif]-->What is the purpose of this? This wouldn't happen to be the first part of the "removal and replace" process, would it?

The Office of the Federal Register is simply correcting this inadvertent error and deleting the language of the prior definition which was replaced by the Clean Water Rule. This is not an action by EPA and is not part of the process the agencies are undertaking pursuant to Executive Order 13778.

---

**From:** Eisenberg, Mindy  
**Sent:** Wednesday, June 7, 2017 12:15 PM  
**To:** Wendelowski, Karyn  
**Cc:** Christensen, Damaris  
**Subject:** FW: MEDIA INQUIRY - Agri-Pulse RE: WOTUS DUE 1pm TODAY

Hey Karyn,

Would you mind writing a response to explain the situation regarding the CFR mistake that they are correcting?

thanks

Mindy Eisenberg  
Acting Director, Oceans, Wetlands &  
Communities Division  
Office of Wetlands, Oceans and  
Watersheds  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW, mailcode  
4502T  
Washington, DC 20460  
(202) 566-1290  
[eisenberg.mindy@epa.gov](mailto:eisenberg.mindy@epa.gov)

---

**From:** Bravo, Antonio  
**Sent:** Wednesday, June 07, 2017 12:06 PM  
**To:** Eisenberg, Mindy  
<[Eisenberg.Mindy@epa.gov](mailto:Eisenberg.Mindy@epa.gov)>;  
Christensen, Damaris  
<[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>  
**Cc:** Fuld, John <[Fuld.John@epa.gov](mailto:Fuld.John@epa.gov)>  
**Subject:** Fwd: MEDIA INQUIRY - Agri-  
Pulse RE: WOTUS DUE 1pm TODAY

Can you help?

Sent from my iPhone

Begin forwarded message:

**From:** "Fuld, John"  
<[Fuld.John@epa.gov](mailto:Fuld.John@epa.gov)>  
**Date:** June 7, 2017 at  
12:01:52 PM EDT  
**To:** "Bravo, Antonio"  
<[Bravo.Antonio@epa.gov](mailto:Bravo.Antonio@epa.gov)>  
**Subject:** FW: MEDIA  
INQUIRY - Agri-  
Pulse RE: WOTUS DUE  
1pm TODAY

Hey just to let you  
know this is over  
there...I HAVE to have  
this back by 1 pm. It  
went over at 11:17 am

---

**From:** Fuld, John  
**Sent:** Wednesday, June 07, 2017 11:17 AM  
**To:** Christensen, Damaris  
<[Christensen.Damaris@epa.gov](mailto:Christensen.Damaris@epa.gov)>  
**Subject:** MEDIA  
INQUIRY - Agri-Pulse  
RE: WOTUS DUE 1pm  
TODAY

<!--[if !vml]-->  
<image002.png><!--  
[endif]--

# >Office of Water Media Inquiry

**John W. Fuld, Ph.D.**  
U.S. Media Relations  
Mgr.-Water  
[fuld.john@epa.gov](mailto:fuld.john@epa.gov)

**DATE: June 7,  
2017**

**OUTLET: Agri-  
Pulse**

**REPORTER:  
Steve Davies**

**TOPIC: WOTUS**

**DEADLINE: 1  
pm FAST TURN  
AROUND**

## OW PROGRAM

### OFFICE:

### PERTINENT

### INFORMATION

:

Reporter is trying to  
get more information  
on the FR notice  
scheduled for  
publication tomorrow  
and copied below.

### QUESTION:

1. <!--[if  
!suppo  
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[endif]  
-->Can  
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being  
remove  
d?

2. <!--[if  
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--><!--  
[endif]  
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>What  
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ENVIRONMENTAL  
PROTECTION  
AGENCY 40 CFR  
Part 232.404

Program Definitions;  
Exempt Activities Not  
Requiring 404  
Permits

**CFR Correction**

In Title 40 of the  
Code of Federal  
Regulations, Parts  
190 to 259, **revised as  
of July 1, 2016**, on  
page 319, in §232.2,  
the first definition of  
Waters of the United  
States is removed.

BILLING CODE  
1301-00-D

[FR Doc. 2017-11894  
Filed: 6/7/2017 8:45  
am; Publication Date:  
6/8/2017]

**All waters which  
are currently used,  
were used in the  
past, or may be  
susceptible to use in  
interstate or foreign**



commerce, including  
all waters which are  
subject to the ebb  
and flow of the tide;

\*\*\*\*\*  
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**INFORMATION  
PUBLICLY  
AVAILABLE:**  
*(LIST SOURCE  
WITH EACH  
ANSWER)  
Web-link or source  
material.*

\*\*\*\*\*  
\*\*\*\*\*  
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\*\*\*\*\*  
\*\*\*\*\*

**ANSWERS:**

**John W. Fuld, Ph.D.**  
U.S. Media Relations  
Manager Office of  
Water  
Environmental  
Protection Agency  
1200 Constitution  
Ave  
Washington DC  
20460  
Office: 202-564-8847  
**Personal Phone / Ex. 6**  
[Fuld.john@epa.gov](mailto:Fuld.john@epa.gov)

<image003.png>

Message

**From:** Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]  
**Sent:** 5/19/2017 3:06:06 PM  
**To:** Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]  
**CC:** Ferguson, Lincoln [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=08cd7f82606244de96b61b96681c46de-Ferguson, L]  
**Subject:** RE: Regulatory reform  
**Attachments:** DF 2017-05-19.docx

I don't know whether we keep a file of these centrally, but here are my notes from this morning's talk. Thanks again for the helpful talking points!

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Fotouhi, David  
**Sent:** Friday, May 19, 2017 10:32 AM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Ferguson, Lincoln <[ferguson.lincoln@epa.gov](mailto:ferguson.lincoln@epa.gov)>  
**Subject:** Re: Regulatory reform

No problem! It went well, and thanks for the bullets. I'll shoot you my script as an FYI when I get back.

Sent from my iPhone

On May 19, 2017, at 10:12 AM, Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)> wrote:

How did it go? Were these helpful? Sorry for the delay. I got distracted and was out by the time you reminded me.

---

**From:** Fotouhi, David  
**Sent:** Thursday, May 18, 2017 10:11 PM  
**To:** Ferguson, Lincoln <[ferguson.lincoln@epa.gov](mailto:ferguson.lincoln@epa.gov)>  
**Cc:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Subject:** RE: Regulatory reform

Thank you!

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

**From:** Ferguson, Lincoln  
**Sent:** Thursday, May 18, 2017 9:32 PM  
**To:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>  
**Cc:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Subject:** Re: Regulatory reform

David-

Hopefully these will help:

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

# Deliberative Process / Ex. 5

Sent from my iPhone

On May 18, 2017, at 8:44 PM, Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)> wrote:

Thanks very much, Liz. Whatever you could provide would be very helpful.

David Fotouhi

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

-----Original Message-----

From: Bowman, Liz  
Sent: Thursday, May 18, 2017 5:01 PM  
To: Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Ferguson, Lincoln <[ferguson.lincoln@epa.gov](mailto:ferguson.lincoln@epa.gov)>; Freire, JP <[Freire.JP@epa.gov](mailto:Freire.JP@epa.gov)>  
Subject: RE: Regulatory reform

Yes; we can send you some talking points -- Lincoln, do you have them, or do you need me to send them?

-----Original Message-----

From: Fotouhi, David  
Sent: Thursday, May 18, 2017 3:53 PM  
To: Ferguson, Lincoln <[ferguson.lincoln@epa.gov](mailto:ferguson.lincoln@epa.gov)>; Freire, JP <[Freire.JP@epa.gov](mailto:Freire.JP@epa.gov)>; Bowman, Liz <[Bowman.Liz@epa.gov](mailto: Bowman.Liz@epa.gov)>  
Subject: Regulatory reform

Lincoln, JP, Liz,

I'm giving some remarks at an ABA breakfast tomorrow morning, and I'd like to touch on the regulatory reform effort pursuant to the EO. Do we have any statements/materials/speeches that you could send me so that I can get my bearings on the right message? Thank you!

Sent from my iPhone

Message

---

**From:** Fotouhi, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FEBAF0D56AAB43F8A9174B18218C1182-FOTOUHI, DA]  
**Sent:** 5/9/2017 2:32:58 AM  
**To:** Munoz, Charles [munoz.charles@epa.gov]; Ford, Hayley [ford.hayley@epa.gov]  
**CC:** Schwab, Justin [schwab.justin@epa.gov]  
**Subject:** FW: May 9-15, 2017 | Line x Line  
**Attachments:** OGC edits to EPA Cabinet 30 Day Report 5.9.17.docx

Charles, Hayley,

Attached is the 30-day cabinet report with additions to the legal section tracked therein. Please let us know if you have any questions. If you need to streamline this, please feel free to do so. Thanks!

Best,

David

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Jackson, Ryan  
**Sent:** Monday, May 8, 2017 7:58 PM  
**To:** Hupp, Sydney <hupp.sydney@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>  
**Subject:** RE: May 9-15, 2017 | Line x Line

All, attached is the 30 day outlook which needed your contributions by COB today. Many things are missing.

This needs your immediate attention.

Also, some of the items will be duplicated until they fall off the 30 day, but this needs your contributions ASAP.

Additionally, your attention is required on providing initiatives, guidance, rulemaking, and other principal projects to the Office of Policy. This takes no time at all when each of us individually contributes.

I'm expecting a new sheet with everyone's stuff for the meeting Wednesday morning.

Thank you.

---

**From:** Hupp, Sydney

**Sent:** Monday, May 8, 2017 6:32 PM

**To:** Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Boats, Brian <boats.brian@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Caldwell, James <Caldwell.James@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Graham, Amy <graham.amy@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Hale, Michelle <hale.michelle@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Jennifer L. <Jackson.Jennifer@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Mickle, John <Mickle.John@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Perrotta, Pasquale <Perrotta.Pasquale@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Smith, Chris-L <Smith.Chris-L@epa.gov>; Su, Wendy <su.wendy@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>; Woodward, Cheryl <Woodward.Cheryl@epa.gov>

**Subject:** May 9-15, 2017 | Line x Line

Hey everyone- Below are the upcoming meetings needing a staffer, please let me know which ones you should be in.

**Meeting with Shell (Monday, May 15, 12:00PM)**

Topic: (requested)

**Meeting with Chemours' President and CEO, Mark Vergnano (Monday, May 15, 2:15PM)**

Topic: Introduce Chemours to the Administrator; Share what Chemours is doing to put American innovation to work to create global, market-leading product opportunities, which support new U.S. manufacturing investments and jobs; Share Chemours' desire to see EPA maintain consistency vis-à-vis HFCs in order to help protect U.S. leadership in this space and protect significant new U.S. investments the company has made in reliance on previous EPA policy decisions; Share Chemours' desire to see EPA implement the Lautenberg Chemical Safety Act in a fair, efficient, and reasonable manner, consistent with the new law and Congressional intent.

Location: Administrator's Office

***Additionally, Chief of Staff meeting in the morning is cancelled.***

Have a good night!

---

**Sydney Hupp**

Executive Scheduler

Office of the Administrator

Personal Phone / Ex. 6 (c)

**To:** Greenwalt, Sarah[greenwalt.sarah@epa.gov]  
**From:** Fotouhi, David  
**Sent:** Fri 4/21/2017 6:04:32 PM  
**Subject:** FW: WOUS, Step 1  
WOTUS-2 Step 1 working preamble 4-20-17 for OGC review 4-21.docx

Deliberative Process / AWP Ex. 5

Deliberative Process / AWP Ex. 5

I just wanted to make sure you knew that folks were continuing to work on this.

**David Fotouhi**  
  
Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Kupchan, Simma  
**Sent:** Friday, April 21, 2017 2:01 PM  
**To:** Minoli, Kevin <Minoli.Kevin@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>  
**Subject:** RE: WOUS, Step 1

Kevin, David, and Justin,

Thanks for your initial feedback on the Step 1 preamble. Attached is an electronic version of the draft we shared with you today  
(

Deliberative Process / AWP Ex. 5

) We look forward to receiving any further comments.

Thanks,

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

-----Original Appointment-----  
**From:** Minoli, Kevin  
**Sent:** Thursday, April 20, 2017 1:05 PM  
**To:** Minoli, Kevin; Neugeboren, Steven; Schwab, Justin; Fotouhi, David; Wehling, Carrie; Kupchan, Simma  
**Subject:** WOUS, Step 1  
**When:** Friday, April 21, 2017 1:00 PM-1:30 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** 4000

**To:** Schwab, Justin[schwab.justin@epa.gov]  
**From:** Fotouhi, David  
**Sent:** Thur 4/20/2017 10:45:29 PM  
**Subject:** RE: draft litigation report for Moran

Please see a revised draft below **Deliberative Process / attorney work product Ex. 5**  
**Deliberative Process / attorney work product Ex. 5**

**David Fotouhi**  
  
Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Schwab, Justin  
**Sent:** Thursday, April 20, 2017 12:30 PM  
**To:** Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>  
**Subject:** draft litigation report for Moran

Please add anything I’m recused from and pass on to him copying me (unless we need to discuss further). Please use your judgment on whether **Deliberative Process / attorney work product Ex. 5**

His prompt:  
  
“Do you guys have a recent overview of major litigation involving EPA? I am mainly just trying to flag things that either directly involve White House equities or are marquee items in terms of policy / publicity (e.g., CPP, WOTUS, Juliana).”  
  
My input (culled from Kevin’s weekly reports/informed by my own knowledge):

**Deliberative Process /attorney work product Ex. 5**

**Deliberative Process /attorney work product Ex. 5**



**Deliberative Process /attorney work product Ex. 5**

**Deliberative Process /attorney work product Ex. 5**

**To:** Schwab, Justin[schwab.justin@epa.gov]  
**From:** Fotouhi, David  
**Sent:** Wed 4/12/2017 6:29:40 PM  
**Subject:** FW: WOTUS plans -- E&E News  
[WOTUS Letter.pdf](#)

**David Fotouhi**

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Valentine, Julia  
**Sent:** Wednesday, April 12, 2017 10:15 AM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Freire, JP <[Freire.JP@epa.gov](mailto:Freire.JP@epa.gov)>; Konkus, John <[konkus.john@epa.gov](mailto:konkus.john@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>; Hull, George <[Hull.George@epa.gov](mailto:Hull.George@epa.gov)>  
**Subject:** RE: WOTUS plans -- E&E News

Hi Liz- Spoke with Mindy Eisenberg, Acting Director of the Wetlands Office who attended the meeting yesterday in place of Benita Best-Wong. Mindy spoke directly from the attached letter from the Administrator sent Monday to various water trade associations. It lays out next steps for WOTUS.

Mindy said she spoke "straight from the letter," and "reemphasized the importance of our state partners." Since the letter hasn't been in the press yet, the reporter thinks Mindy's comments yesterday is a great scoop or gossip.

Call me or George if you have any questions. 564-2663

---

**From:** Bowman, Liz  
**Sent:** Wednesday, April 12, 2017 9:27 AM  
**To:** Valentine, Julia <[Valentine.Julia@epa.gov](mailto:Valentine.Julia@epa.gov)>  
**Cc:** Freire, JP <[Freire.JP@epa.gov](mailto:Freire.JP@epa.gov)>; Konkus, John <[konkus.john@epa.gov](mailto:konkus.john@epa.gov)>; Fotouhi, David <[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)>  
**Subject:** FW: WOTUS plans -- E&E News

Please figure out went to this meeting and let us know as soon as possible. We need to know what they said and why they said it, so that we can respond. Thank you – Liz

---

**From:** Ariel Wittenberg [<mailto:awittenberg@eenews.net>]  
**Sent:** Wednesday, April 12, 2017 8:20 AM  
**To:** Press <[Press@epa.gov](mailto:Press@epa.gov)>  
**Cc:** Grantham, Nancy <[Grantham.Nancy@epa.gov](mailto:Grantham.Nancy@epa.gov)>; Konkus, John <[konkus.john@epa.gov](mailto:konkus.john@epa.gov)>  
**Subject:** WOTUS plans -- E&E News

Hi John and Nancy,

Was hoping to confirm something I've been hearing from a few people that someone from the EPA spoke at a meeting of the Association of State Wetland Managers yesterday and discussed plans to repeal and revise WOTUS. What I've heard is that someone from EPA Headquarters (It was scheduled to be Benita Best-Wong but someone else came instead) said that the EPA intends to hold two separate rulemaking processes to fulfill President Trump's Executive Order. The first would issue a proposal to rescind WOTUS and replace it with the 1986 regulations. The second would begin a new rulemaking to issue a new definition of "Waters of the U.S.". I was hoping you could please confirm this and also tell me who it was that replaced Benita at the meeting. Also, any further comment would be appreciated. My deadline is 11:30 today,

Thanks,

Ariel

Ariel Wittenberg  
E&E News reporter  
[awittenberg@eenews.net](mailto:awittenberg@eenews.net)

Ex. 6

[@arielwittenberg](#)

## **E&E NEWS**

122 C Street NW 7th Floor Washington, DC 20001

[www.eenews.net](http://www.eenews.net) | [@EENewsUpdates](#)

Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM, E&ETV

**To:** OGC HQ ADDs[OGC\_HQ\_ADDs@epa.gov]  
**Cc:** Albores, Richard[Albores.Richard@epa.gov]; Prabhu, Aditi[Prabhu.Aditi@epa.gov]; Trudeau, Shaun[Trudeau.Shaun@epa.gov]  
**From:** Minoli, Kevin  
**Sent:** Fri 3/31/2017 2:16:09 AM  
**Subject:** Fw: OGC's Weekly Report  
OGC Weekly Report 3.30.17.docx

All- Attached is our latest weekly report. Please do take a look at it as it will be helpful when I ask folks for a couple bullets on a topic to know how much (or how little) I can actually include on any one issue. Thanks, Kevin

Kevin S. Minoli  
  
Acting General Counsel  
  
Office of General Counsel  
  
US Environmental Protection Agency  
  
Office Line: 202-564-8040  
  
Direct Dial: 202-564-5551

---

**From:** Minoli, Kevin  
**Sent:** Thursday, March 30, 2017 10:14 PM  
**To:** Weekly Report Group  
**Cc:** Knapp, Kristien; Packard, Elise; Schwab, Justin; Fotouhi, David; Dunham, Sarah; Shapiro, Mike; Cleland-Hamnett, Wendy; Greenwalt, Sarah; Dravis, Samantha; Gunasekara, Mandy  
**Subject:** OGC's Weekly Report

All- Attached is OGC's Weekly Report for March 30th. For any items listed, please feel free to contact me, Elise, Justin, or David for more information. Kevin

Kevin S. Minoli  
  
Acting General Counsel  
  
Office of General Counsel  
  
US Environmental Protection Agency  
  
Office Line: 202-564-8040  
  
Direct Dial: 202-564-5551

**To:** Wardzinski, Karen (ENRD)[Karen.Wardzinski@usdoj.gov]; Fugh, Justina[Fugh.Justina@epa.gov]  
**From:** Gregg, Ragu-Jara "Juge" (ENRD)  
**Sent:** Mon 3/6/2017 8:02:40 PM  
**Subject:** List of cases  
[scott-pruitt-qfr-supplemental-materials-01.18.2017.pdf](#)

In case you haven't seen it, please see the attached list of cases provided by Mr. Pruitt as part of his QFRs. See the second link at the bottom of this page:

<https://www.epw.senate.gov/public/index.cfm/press-releases-democratic?ID=DC696755-5B0E-424B-B66F-58F380ADE12B>

Best,  
Juge

**To:** Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]  
**Sent:** Thur 4/6/2017 12:56:39 PM  
**Subject:** FW: WOTUS messaging  
DRAFT FedConInvite2WOTUS2.docx

---

**From:** Ferguson, Lincoln  
**Sent:** Thursday, April 06, 2017 8:30 AM  
**To:** Goodin, John <Goodin.John@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>  
**Cc:** Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** RE: WOTUS messaging

Looks good to me. I added a few small edits/thoughts. The Administrator is currently scheduled to be out of the office the week you are looking at.

Let me know if there is anything else I can do.

Thanks,  
LF

---

**From:** Goodin, John  
**Sent:** Wednesday, April 5, 2017 5:56 PM  
**To:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>  
**Cc:** Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** RE: WOTUS messaging

Folks—attached for your review and edits is a draft Federalism invite letter that has been reviewed by OCIR, OGC, OW, and Army staff. Note that although the letter highlights one meeting time, we currently are holding several rooms and timeslots the week of Deliberative Process / Ex. 5 (see below), if there is a preferred time that allows the Administrator or you to kick-off/participate.

Thanks  
John

Deliberative Process / Ex. 5

---

**From:** Greenwalt, Sarah  
**Sent:** Wednesday, April 05, 2017 2:38 PM  
**To:** Goodin, John <Goodin.John@epa.gov>  
**Cc:** Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Freire, JP <Freire.JP@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>  
**Subject:** Re: WOTUS messaging

That's great, thanks!  
Sent from my iPhone  
On Apr 5, 2017, at 1:00 PM, Goodin, John <Goodin.John@epa.gov> wrote:

Thanks, Sarah. We'll send the revised draft forward to Lincoln et al. NLT COB. We're quickly circulating a revised version to staff at OGC, OCIR, and Army for input, as discussed this morning.  
Thanks  
John

**From:** Greenwalt, Sarah  
**Sent:** Wednesday, April 05, 2017 12:23 PM  
**To:** Ferguson, Lincoln <ferguson.lincoln@epa.gov>  
**Cc:** Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** RE: WOTUS messaging

John will circulate once that has been added in.

**Sarah A. Greenwalt**  
Senior Advisor to the Administrator  
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell: **Ex. 6**  
[Greenwalt.Sarah@epa.gov](mailto:Greenwalt.Sarah@epa.gov)

---

**From:** Ferguson, Lincoln  
**Sent:** Wednesday, April 5, 2017 11:41 AM  
**To:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>  
**Cc:** Freire, JP <Freire.JP@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>  
**Subject:** Re: WOTUS messaging

Happy to help.

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

Sent from my iPhone

On Apr 5, 2017, at 11:33 AM, Greenwalt, Sarah <greenwalt.sarah@epa.gov> wrote:

JP and Lincoln,

**Deliberative Process / Ex. 5**

Thanks!

**Sarah A. Greenwalt**  
Senior Advisor to the Administrator  
for Water and Cross-Cutting Issues

U.S. Environmental Protection Agency

Work: 202-564-1722 | Cell: **Ex. 6**  
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Message

---

**From:** Hurlid, Kathy [Hurlid.Kathy@epa.gov]  
**Sent:** 5/30/2017 3:11:55 PM  
**To:** Goodin, John [Goodin.John@epa.gov]  
**Subject:** Fwd: letter and powerpoint for NASDA members  
**Attachments:** state federalism outreach invite NASDA.PDF; ATT00001.htm; federalism NASDA ppt 5-31-17.pdf; ATT00002.htm

Sent from my iPhone

Begin forwarded message:

**From:** "Nitsch, Chad" <Nitsch.Chad@epa.gov>  
**To:** "Hurlid, Kathy" <Hurlid.Kathy@epa.gov>  
**Cc:** "Christensen, Damaris" <Christensen.Damaris@epa.gov>, "Eisenberg, Mindy" <Eisenberg.Mindy@epa.gov>  
**Subject:** FW: letter and powerpoint for NASDA members

FYI

Chad Nitsch  
State and Regional Partnerships | Office of the Administrator  
Environmental Protection Agency  
202-564-4714

---

**From:** Nitsch, Chad  
**Sent:** Friday, May 26, 2017 12:17 PM  
**To:** 'Britt Aasmundstad' <britt@nasda.org>  
**Cc:** Bowles, Jack <Bowles.Jack@epa.gov>; Osinski, Michael <Osinski.Michael@epa.gov>  
**Subject:** letter and powerpoint for NASDA members

Britt,

For the May 31<sup>st</sup> meeting, here is the invite and powerpoint you can send to the NASDA members. Let me know if you have questions. Otherwise, enjoy the weekend.

Thank you,

Chad Nitsch  
State and Regional Partnerships | Office of the Administrator  
Environmental Protection Agency  
202-564-4714



Message

**From:** Nitsch, Chad [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D1D117EB89FF410FB6CCD21643B34447-CNITSCH]  
**Sent:** 5/18/2017 5:32:50 PM  
**To:** Bowles, Jack [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=78e63acc248f41328768db82d95464c3-JBOWLES]; Hurlid, Kathy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f3b04131f1145fcb4ccf5b0a64c1ac4-KHurlid]; Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]  
**CC:** Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Hanson, Andrew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=976b280c3eaf4e50b91a25d75466cf3c-Hanson, Andrew]  
**Subject:** RE: NASDA Agenda & Additional Reference Materials (Meeting Thur @ 9:00 AM)

Kathy,

I'll call you later today to assess John's availability and dates that we can propose to NASDA, Ken, and Tate.

Thank you,

Chad Nitsch  
State and Regional Partnerships | Office of the Administrator  
Environmental Protection Agency  
202-564-4714

---

**From:** Bowles, Jack  
**Sent:** Thursday, May 18, 2017 12:25 PM  
**To:** Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Goodin, John <Goodin.John@epa.gov>  
**Cc:** Christensen, Damaris <Christensen.Damaris@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>; Hanson, Andrew <Hanson.Andrew@epa.gov>  
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**Cc:** Christensen, Damaris <Christensen.Damaris@epa.gov>; Nitsch, Chad <Nitsch.Chad@epa.gov>; Hanson, Andrew <Hanson.Andrew@epa.gov>  
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Morning Jack,

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**Deliberative Process / Ex. 5**

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**Cc:** Christensen, Damaris <Christensen.Damaris@epa.gov>

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Jack, did you go to this meeting and perhaps take notes on any discussions regarding the WOTUS rule? If so can you send them to me including (who was present). I'll take a photocopy that I transcribe.

Thanks,

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Oh also tracking down the digestible summary your requested last night of our federalism/outreach efforts on WOTUS take 1.

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**Sent:** Wednesday, May 17, 2017 5:41 PM

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FYI

Sent from my iPhone

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**Subject:** FW: NASDA Agenda & Additional Reference Materials (Meeting Thur @ 9:00 AM)

Reminder, here are the materials for tomorrow's NASDA meeting. I provided hard copies to the group this morning. We're meeting in 3530 at 9am. I will escort the group upstairs.

See you all tomorrow morning,

Chad Nitsch  
State and Regional Partnerships | Office of the Administrator  
Environmental Protection Agency  
202-564-4714

---

**From:** Dudley Hoskins [<mailto:Dudley@nasda.org>]  
**Sent:** Wednesday, May 17, 2017 10:15 AM  
**To:** Nitsch, Chad <[Nitsch.Chad@epa.gov](mailto:Nitsch.Chad@epa.gov)>  
**Cc:** Nathan Bowen <[Nathan@nasda.org](mailto:Nathan@nasda.org)>; Wagner, Kenneth <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>; Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>; Cheatham-Strickland, Latonia <[Cheatham-Strickland.Latonia@epa.gov](mailto:Cheatham-Strickland.Latonia@epa.gov)>  
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2. NASDA member testimony (Senate Ag Hearing on Pesticides & PRIA); and
3. Full list of NASDA attendees.

Please let me know if you have any questions or would like to touch base at any time. My cell (Ex. 6)

Ex. 6

Many thanks again for your time, partnership, and leadership across the board – looking forward to seeing you all tomorrow morning. - dudley

**Dudley W. Hoskins** • Public Policy Counsel • **National Association of State Departments of Agriculture**  
4350 North Fairfax Drive Suite 910 Arlington, VA 22203 • (P) 202.296.9680 • (C) Personal Phone / Ex. 6 • [www.nasda.org](http://www.nasda.org)

---

**From:** Nitsch, Chad [<mailto:Nitsch.Chad@epa.gov>]  
**Sent:** Monday, May 15, 2017 1:01 PM  
**To:** Dudley Hoskins  
**Cc:** Nathan Bowen; Wagner, Kenneth; Bennett, Tate; Cheatham-Strickland, Latonia  
**Subject:** RE: Potential Meeting Coordination: NASDA Executive Comm Members

Dudley,

Ken and Tate are both available to meet at EPA. Does 9-10 still work on Thursday?

Thank you,

Chad Nitsch  
State and Regional Partnerships | Office of the Administrator  
Environmental Protection Agency  
202-564-4714

---

**From:** Bennett, Tate  
**Sent:** Friday, May 12, 2017 4:00 PM  
**To:** Dudley Hoskins <[Dudley@nasda.org](mailto:Dudley@nasda.org)>; Wagner, Kenneth <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>  
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**Sent:** 5/18/2017 4:24:34 PM  
**To:** Hurl, Kathy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f3b04131f1145fcb4ccf5b0a64c1ac4-KHurl]; Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]  
**CC:** Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Nitsch, Chad [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d1d117eb89ff410fb6ccd21643b34447-CNitsch]; Hanson, Andrew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=976b280c3eaf4e50b91a25d75466cf3c-Hanson, Andrew]  
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**Deliberative Process / Ex. 5**

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**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

The main takeaway is that after the meeting NASDA expressed interest in a WOTUS call with their membership (the state ag secretaries/commissioners) so they can hear from us directly.

It can be organized like yesterday's NGA meeting, with a Tate and/or Ken Wagner intro with John walking through the powerpoint for them.

This is a good hit and I think may engender significant substantive discussion on the call along with helping to generate direct federalism comments from the state ag commissioners.

Does this sound workable?

Best,  
Jack

---

**From:** Hurl, Kathy  
**Sent:** Thursday, May 18, 2017 12:12 PM  
**To:** Bowles, Jack <Bowles.Jack@epa.gov>; Goodin, John <Goodin.John@epa.gov>

**Cc:** Christensen, Damaris <Christensen.Damaris@epa.gov>

**Subject:** RE: NASDA Agenda & Additional Reference Materials (Meeting Thur @ 9:00 AM)

Jack, did you go to this meeting and perhaps take notes on any discussions regarding the WOTUS rule? If so can you send them to me including (who was present). I'll take a photocopy that I transcribe.

Thanks,

Trying to keep track of everything.

Oh also tracking down the digestible summary your requested last night of our federalism/outreach efforts on WOTUS take 1.

---

**From:** Bowles, Jack

**Sent:** Wednesday, May 17, 2017 5:41 PM

**To:** Goodin, John <Goodin.John@epa.gov>; Hurlid, Kathy <Hurlid.Kathy@epa.gov>

**Subject:** Fwd: NASDA Agenda & Additional Reference Materials (Meeting Thur @ 9:00 AM)

FYI

Sent from my iPhone

Begin forwarded message:

**From:** "Nitsch, Chad" <Nitsch.Chad@epa.gov>

**To:** "Osinski, Michael" <Osinski.Michael@epa.gov>, "Bowles, Jack" <Bowles.Jack@epa.gov>, "Wagner, Kenneth" <wagner.kenneth@epa.gov>, "Bennett, Tate" <Bennett.Tate@epa.gov>

**Subject:** FW: NASDA Agenda & Additional Reference Materials (Meeting Thur @ 9:00 AM)

Reminder, here are the materials for tomorrow's NASDA meeting. I provided hard copies to the group this morning. We're meeting in 3530 at 9am. I will escort the group upstairs.

See you all tomorrow morning,

Chad Nitsch  
State and Regional Partnerships | Office of the Administrator  
Environmental Protection Agency  
202-564-4714

---

**From:** Dudley Hoskins [mailto:Dudley@nasda.org]

**Sent:** Wednesday, May 17, 2017 10:15 AM

**To:** Nitsch, Chad <Nitsch.Chad@epa.gov>

**Cc:** Nathan Bowen <Nathan@nasda.org>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Cheatham-Strickland, Latonia <Cheatham-Strickland.Latonia@epa.gov>

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Also attaching:

1. NASDA EPA Reg Reform comments (submitted to the docket this past Monday) – includes additional context on Certification of Pesticide Applicators rule and Worker Protection Standard;
2. NASDA member testimony (Senate Ag Hearing on Pesticides & PRIA); and

3. Full list of NASDA attendees.

Please let me know if you have any questions or would like to touch base at any time. My cell

**Ex. 6**

**Ex. 6**

Many thanks again for your time, partnership, and leadership across the board – looking forward to seeing you all tomorrow morning. - dudley

**Dudley W. Hoskins** • Public Policy Counsel • **National Association of State Departments of Agriculture**  
4350 North Fairfax Drive Suite 910 Arlington, VA 22203 • (P) 202.296.9680 • (C) Personal Phone / Ex. 6 • [www.nasda.org](http://www.nasda.org)

---

**From:** Nitsch, Chad [<mailto:Nitsch.Chad@epa.gov>]  
**Sent:** Monday, May 15, 2017 1:01 PM  
**To:** Dudley Hoskins  
**Cc:** Nathan Bowen; Wagner, Kenneth; Bennett, Tate; Cheatham-Strickland, Latonia  
**Subject:** RE: Potential Meeting Coordination: NASDA Executive Comm Members

Dudley,

Ken and Tate are both available to meet at EPA. Does 9-10 still work on Thursday?

Thank you,

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202-564-4714

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**To:** Dudley Hoskins <[Dudley@nasda.org](mailto:Dudley@nasda.org)>; Wagner, Kenneth <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>  
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I should be free. Not sure of Ken's calendar off the top of the head.

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**To:** Wagner, Kenneth <[wagner.kenneth@epa.gov](mailto:wagner.kenneth@epa.gov)>; Bennett, Tate <[Bennett.Tate@epa.gov](mailto:Bennett.Tate@epa.gov)>  
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Ken & Tate – hope all is well on your ends.

I wanted to send a quick note to gauge your interest/availability to meet with a few of our Executive Committee members who will be in town next Thursday (18<sup>th</sup>)?

It looks like the only time we have available will be between 9:00 – 10:00 AM, but I wanted to send this note to check in on potential coordination, schedules permitting.

NASDA Members in town next week:

- President : Commissioner Michael Strain, Louisiana Department of Agriculture & Forestry;
- Vice President : Commissioner Steven Reviczky, Connecticut Department of Agriculture;

- Second Vice President : Secretary/Director Jeff Witte, New Mexico Department of Agriculture; and
- Secretary-Treasurer: Secretary Jamie Clover Adams, Michigan Department of Agriculture.

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Message

**From:** Bowles, Jack [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=78E63ACC248F41328768DB82D95464C3-JBOWLES]  
**Sent:** 5/18/2017 4:18:59 PM  
**To:** Hurl, Kathy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=2f3b04131f1145fcb4ccf5b0a64c1ac4-KHurl]; Goodin, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3eac342f280a4b9db4079c81f66d1913-JGoodin]  
**CC:** Christensen, Damaris [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e04107c23c1043d6967754064c477a29-Christensen, Damaris]; Nitsch, Chad [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d1d117eb89ff410fb6ccd21643b34447-CNitsch]; Hanson, Andrew [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=976b280c3eaf4e50b91a25d75466cf3c-Hanson, Andrew]  
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**Deliberative Process / Ex. 5**

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- and
- Secretary-Treasurer: Secretary Jamie Clover Adams, Michigan Department of Agriculture.

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Message

---

**From:** Moore, Kristie [Moore.Kristie@epa.gov]  
**Sent:** 5/9/2017 8:01:28 PM  
**To:** Connors, Sandra [Connors.Sandra@epa.gov]; Goodin, John [Goodin.John@epa.gov]  
**CC:** Brown, Robert [Brown.Robert@epa.gov]; Chancey, Barbara [Chancey.Barbara@epa.gov]  
**Subject:** FW: REVIEW: FY18 Budget Press Conference/Hearing Papers -- Adding WOTUS  
**Attachments:** FY18 PB 319.docx; FY18 PB Bristol Bay.docx; FY18 PB GeoOther.docx; FY18 PB Lake Champlain.docx; FY18 PB LIS v2.docx; FY18 PB MarinePollution.docx; FY18 PB Nutrient HTF.docx; FY18 PB OR CZARA.docx; FY18 PB SFBay.docx; FY18 PB SouthFL.docx; FY18 PB NEP Coastal Waterways with SC Comments.docx; FY18 PB PugetSound.docx; FY18PB Illinois RiverWatershed Modeling.docx; FY18PB Buffalo MT.docx; Fact Sheet for FY18 Budget -- WOTUS v1km.docx; FY18 PB OH and MI Lists ps.docx

Sandra,

# Deliberative Process / Ex. 5

Thank you,

Kristie

Kristie M. Moore  
Office of Wetlands Oceans and Watersheds  
U.S. Environmental Protection Agency  
EPA West  
1200 Pennsylvania Ave., NW  
MC-4501 T  
Washington, DC, 20460  
office: (202) 566-1616  
fax: (202) 566-1544

---

**From:** Moore, Kristie  
**Sent:** Monday, May 08, 2017 6:43 AM  
**To:** Connors, Sandra <Connors.Sandra@epa.gov>; Goodin, John <Goodin.John@epa.gov>  
**Cc:** Brown, Robert <Brown.Robert@epa.gov>; Chancey, Barbara <Chancey.Barbara@epa.gov>  
**Subject:** FW: REVIEW: FY18 Budget Press Conference/Hearing Papers -- Adding WOTUS

Sandra,

## Deliberative Process / Ex. 5

WOTUS is due COB today.  
No due date on the others yet.

Please let me know what edits/comments you have.

Thank you,



Kristie

Kristie M. Moore  
Office of Wetlands Oceans and Watersheds  
U.S. Environmental Protection Agency  
EPA West  
1200 Pennsylvania Ave., NW  
MC-4501 T  
Washington, DC, 20460  
office: (202) 566-1616  
fax: (202) 566-1544

---

**From:** Moore, Kristie  
**Sent:** Friday, May 05, 2017 7:53 PM  
**To:** Connors, Sandra <[Connors.Sandra@epa.gov](mailto:Connors.Sandra@epa.gov)>  
**Subject:** FW: REVIEW: FY18 Budget Press Conference/Hearing Papers -- Adding WOTUS

Sandra,  
I said I would follow-up with the due date for WOTUS. OW's instructions say May 8 so COB should work.

Kristie

Kristie M. Moore  
Office of Wetlands Oceans and Watersheds  
U.S. Environmental Protection Agency  
EPA West  
1200 Pennsylvania Ave., NW  
MC-4501 T  
Washington, DC, 20460  
office: (202) 566-1616  
fax: (202) 566-1544

---

**From:** Moore, Kristie  
**Sent:** Friday, May 05, 2017 3:06 PM  
**To:** Connors, Sandra <[Connors.Sandra@epa.gov](mailto:Connors.Sandra@epa.gov)>; Goodin, John <[Goodin.John@epa.gov](mailto:Goodin.John@epa.gov)>  
**Cc:** Brown, Robert <[Brown.Robert@epa.gov](mailto:Brown.Robert@epa.gov)>; Chancey, Barbara <[Chancey.Barbara@epa.gov](mailto:Chancey.Barbara@epa.gov)>  
**Subject:** FW: REVIEW: FY18 Budget Press Conference/Hearing Papers -- Adding WOTUS

Sandra,

I'm adding WOTUS to the list of attachments: Deliberative Process / Ex. 5

Still owe you: Deliberative Process / Ex. 5. Probably won't get this one to you until Monday.

Kristie

Kristie M. Moore  
Office of Wetlands Oceans and Watersheds  
U.S. Environmental Protection Agency  
EPA West  
1200 Pennsylvania Ave., NW  
MC-4501 T  
Washington, DC, 20460  
office: (202) 566-1616  
fax: (202) 566-1544

**From:** Moore, Kristie  
**Sent:** Friday, May 05, 2017 11:09 AM  
**To:** Connors, Sandra <Connors.Sandra@epa.gov>; Goodin, John <Goodin.John@epa.gov>  
**Cc:** Brown, Robert <Brown.Robert@epa.gov>; Chancey, Barbara <Chancey.Barbara@epa.gov>  
**Subject:** REVIEW: FY18 Budget Press Conference/Hearing Papers

Sandra,

Attached are the FY18 press conference/hearing papers prepared by OWOW. They're also in a folder called "For Sandra and John's Review" on SharePoint. WOTUS is the only one due on Monday (still waiting on this one), but we can expect the other papers will likely be due soon after.

The FY18 President's Budget will be released on **Monday, May 22**.

**Deliberative Process / Ex. 5**

The Senate Appropriation Committee Hearing is **June 27**.

**Deliberative Process / Ex. 5**

Attached factsheets:

**Deliberative Process / Ex. 5**

What I still owe you:

**Deliberative Process / Ex. 5**

Up in the air:

**Deliberative Process / Ex. 5**

I'll drop-off hard copies. Please let me know what edits you have.

Thank you,  
Kristie

Kristie M. Moore  
Office of Wetlands Oceans and Watersheds  
U.S. Environmental Protection Agency  
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office: (202) 566-1616  
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**To:** Hanson, Andrew[Hanson.Andrew@epa.gov]; Hannon, Arnita[Hannon.Arnita@epa.gov]; Banks, Portia[Banks.Portia@epa.gov]; Cook-Shyovitz, Becky[Cook-Shyovitz.Becky@epa.gov]; Eargle, Frances[Eargle.Frances@epa.gov]; Matthews, Demond[matthews.demond@epa.gov]; Richardson, RobinH[Richardson.RobinH@epa.gov]; Barbery, Andrea[Barbery.Andrea@epa.gov]; Nitsch, Chad[Nitsch.Chad@epa.gov]; Osinski, Michael[Osinski.Michael@epa.gov]; Christensen, Damaris[Christensen.Damaris@epa.gov]; Eisenberg, Mindy[Eisenberg.Mindy@epa.gov]; Goodin, John[Goodin.John@epa.gov]  
**From:** Bowles, Jack  
**Sent:** Thur 4/20/2017 5:53:52 PM  
**Subject:** FW: April 20 -- Greenwire is ready

First article reports on yesterday’s WOTUS Federalism meeting, based on the slide deck, Liz Bowman’s public statement, and what appears to be an interview with Alex Dunn.

Best,  
Jack

**From:** E&E News [mailto:eaalerts@eenews.net]  
**Sent:** Thursday, April 20, 2017 1:40 PM  
**To:** Bowles, Jack <Bowles.Jack@epa.gov>  
**Subject:** April 20 -- Greenwire is ready

[Read today's Greenwire on the web](#)

AN E&E NEWS PUBLICATION

**GREENWIRE — Thu., April 20, 2017**

 [READ FULL EDITION](#)

**1. CLEAN WATER RULE:  
Trump EPA plots path to Scalia-inspired regulation**

The Trump administration laid out its vision yesterday for lining up federal Clean Water Act oversight with the views expressed by the late Supreme Court Justice Antonin Scalia.

TOP STORIES

**2. OCEANS:  
Coral loss quickly erodes seafloor, threatens coasts — USGS**

**3. NUCLEAR:  
Vacancies could lead to rare one-man rule at NRC**

**4. YUCCA MOUNTAIN:  
Shimkus drafts plan to jump-start stalled project**

## TRANSITION

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### 5. EPA:

**Teleconference to open gates for feedback on rule cutting**

### 6. REGULATIONS:

**OIRA pick likely to 'spearhead' efforts to repeal rules**

## CONGRESS

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### 7. PEOPLE:

**Top Bishop aide to advise Ryan on energy, environment**

### 8. HOUSE:

**Lawmakers create bipartisan outdoor recreation caucus**

## POLITICS

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### 9. CALIFORNIA:

**Desalination plant firm hires Boxer, former assemblyman**

### 10. NATIONAL MONUMENTS:

**Outdoor Retailer plans Utah march to support Bears Ears**

### 11. CAMPAIGN 2018:

**Democrats throwing millions at vulnerable senators**

## NATURAL RESOURCES

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### 12. WETLANDS:

**La. governor declares emergency to spur restoration permits**

### 13. OCEANS:

**Plastic trash ends up trapped in Arctic**

### 14. CHESAPEAKE BAY:

**Female crab numbers highest in 28 years**

### 15. MARINE MAMMALS:

**Final captive orca born at SeaWorld**

## LAW

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### 16. WATER POLLUTION:

**Enviros, utilities fight to keep 2015 power plant rule**

---

17. AIR POLLUTION:

**Enviros slam EPA bid to delay case on plant startup rule**

18. POLLINATORS:

**Bee protections halt Chicago road project**

19. ENDANGERED SPECIES:

**Judge lifts Mont. dam plan hold over sturgeon**

CLIMATE CHANGE

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20. PEOPLE:

***Time* picks HFC pioneer for 'most influential' list**

ENERGY

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21. RENEWABLE ENERGY:

**Court rejects 'ill-formed' BLM approval of Ore. wind project**

22. KEYSTONE XL:

**Farmers to make last stand against pipeline**

23. NUCLEAR WASTE:

**WIPP accepts 1st shipments in 3 years**

AIR AND WATER

---

24. WESTERN WATER:

**Questionable decisions, missteps led to Oroville Dam crisis**

25. DRINKING WATER:

**Nestlé plans more Mich. groundwater uptake despite pushback**

26. WATER POLLUTION:

**Princess Cruises hit with record fine over waste dumping**

PUBLIC HEALTH

---

27. AIR POLLUTION:

**Neb. mayor decries grassland fires in eastern Kan.**

28. WATER POLLUTION:

**Banned chemicals found under Marine base in Japan**

29. PESTICIDES:

**Dow tries to kill government risk study**

STATES

---

30. OREGON:

**Public land sales unpopular across party lines — poll**

31. IOWA:

**Senate passes water-quality funding bill**

INTERNATIONAL

---

32. PERU:

**Police rescue 27 Galapagos tortoises from bus**

---

Get all of the stories in today's Greenwire, plus an in-depth archive with thousands of articles on your issues, detailed Special Reports and much more at <https://www.greenwire.com>.

Forgot your passcodes? Call us at 202-628-6500 now and we'll set you up instantly.

To send a press release, fax 202-737-5299 or email [editorial@eenews.net](mailto:editorial@eenews.net).

---

**ABOUT GREENWIRE – THE LEADER IN ENERGY AND ENVIRONMENT NEWS**

---

Greenwire is written and produced by the staff of E&E News. The one-stop source for those who need to stay on top of all of today's major energy and environmental action with an average of more than 20 stories a day, Greenwire covers the complete spectrum, from electricity industry restructuring to Clean Air Act litigation to public lands management. Greenwire publishes daily at 1 p.m.

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E&E News

122 C Street NW 7th Floor Washington, DC 20001

Phone: 202-628-6500 Fax: 202-737-5299

[www.eenews.net](http://www.eenews.net)

**To:** Goodin, John[Goodin.John@epa.gov]  
**Cc:** Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Shapiro, Mike[Shapiro.Mike@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Thur 4/20/2017 4:06:03 PM  
**Subject:** RE: Comment from stakeholder meeting today--E&E News

So, Ariel just said she doesn't need us to walk her through it anymore ...thanks anyways! If I get another request along these lines, I will let you know. Thanks for your help and willingness to participate in the discussion.

---

**From:** Goodin, John  
**Sent:** Thursday, April 20, 2017 12:00 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>  
**Subject:** Re: Comment from stakeholder meeting today--E&E News

Sure. Actually have this noon hour available and some time between 2-330p to come by (let me know office number).  
John

Sent from my iPhone

On Apr 20, 2017, at 11:48 AM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Hi John – Would you have time today to come by my office and call this reporter (unless you know how to do a three way call on these phones ;) ) and provide Ariel from E&E News with background on what EPA is currently doing with regard to WOTUS. Sarah and I think \

**Deliberative Process / Ex. 5**

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It would be a short discussion, on background. Or you can provide a written statement about slides 8/9, if that is easier for you. Let me know your thoughts – thank you, Liz (public affairs office)

---

**From:** Ariel Wittenberg [mailto:awittenberg@eenews.net]  
**Sent:** Thursday, April 20, 2017 9:31 AM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Press <Press@epa.gov>  
**Subject:** RE: Comment from stakeholder meeting today--E&E News

Thanks, Liz. Just wanted to circle back with you to let you know I was sent the slideshow EPA presented at the meeting yesterday and to double check that you didn't want to offer more detailed comments. In particular, my article will mention slides 8 and 9 which describe approaches to regulating relatively permanent waters and wetlands to be consistent with Justice Scalia's Rapanos opinion. I'm working remotely today, so feel free to email or call my cell if you need to reach me -

**Personal Phone / Ex. 6**

Thanks,

Ariel

---

**From:** Bowman, Liz [Bowman.Liz@epa.gov]  
**Sent:** Thursday, April 20, 2017 8:20 AM  
**To:** Ariel Wittenberg  
**Cc:** Press  
**Subject:** RE: Comment from stakeholder meeting today--E&E News

Hi Ariel -- The meeting was an opportunity for EPA to hear from stakeholders early in the process. We are encouraged by the wide-ranging feedback we received and look forward to working with these and other partners moving forward, as we seek to define "Waters of the U.S." in a way that strikes the proper balance among local, state and federal protections for the environment and the communities that rely on these waters.

Thanks – Liz

---

**From:** Ariel Wittenberg [mailto:awittenberg@eenews.net]



**Sent:** Wednesday, April 19, 2017 5:32 PM  
**To:** Bowman, Liz <[Bowman.Liz@epa.gov](mailto:Bowman.Liz@epa.gov)>  
**Cc:** Press <[Press@epa.gov](mailto:Press@epa.gov)>  
**Subject:** Comment from stakeholder meeting today--E&E News

Hi Liz,

Just wanted to circle back with you about getting some sort of comment or statement from EPA about the meeting held today with the intergovernmental organizations and the discussions that were held about repealing and replacing WOTUS. I'm writing for a 10 a.m. deadline tomorrow.  
Thanks,

Ariel

Ariel Wittenberg  
E&E News reporter  
[awittenberg@eenews.net](mailto:awittenberg@eenews.net)

**Ex. 6**

[@arielwittenberg](#)

**E&E NEWS**

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Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM, E&ETV

**To:** Goodin, John[Goodin.John@epa.gov]  
**Cc:** Greenwalt, Sarah[greenwalt.sarah@epa.gov]  
**From:** Bowman, Liz  
**Sent:** Thur 4/20/2017 3:48:14 PM  
**Subject:** FW: Comment from stakeholder meeting today--E&E News

Hi John – Would you have time today to come by my office and call this reporter (unless you know how to do a three way call on these phones ;)) and provide Ariel from E&E News with background on what EPA is currently doing with regard to WOTUS. Sarah and I think y

**Deliberative Process / Ex. 5**  
**Deliberative Process / Ex. 5** It would be a short discussion, on background. Or you can provide a written statement about slides 8/9, if that is easier for you. Let me know your thoughts – thank you, Liz (public affairs office)

---

**From:** Ariel Wittenberg [mailto:awittenberg@eenews.net]  
**Sent:** Thursday, April 20, 2017 9:31 AM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Press <Press@epa.gov>  
**Subject:** RE: Comment from stakeholder meeting today--E&E News

Thanks, Liz. Just wanted to circle back with you to let you know I was sent the slideshow EPA presented at the meeting yesterday and to double check that you didn't want to offer more detailed comments. In particular, my article will mention slides 8 and 9 which describe approaches to regulating relatively permanent waters and wetlands to be consistent with Justice Scalia's Rapanos opinion. I'm working remotely today, so feel free to email or call my cell if you need to reach me

Thanks,  
  
Ariel

---

**From:** Bowman, Liz [Bowman.Liz@epa.gov]  
**Sent:** Thursday, April 20, 2017 8:20 AM  
**To:** Ariel Wittenberg  
**Cc:** Press  
**Subject:** RE: Comment from stakeholder meeting today--E&E News

Hi Ariel -- The meeting was an opportunity for EPA to hear from stakeholders early in the process. We are encouraged by the wide-ranging feedback we received and look forward to working with these and other partners moving forward, as we seek to define “Waters of the U.S.” in a way that strikes the proper balance among local, state and federal protections for the environment and the communities that rely on these waters.

Thanks – Liz

---

**From:** Ariel Wittenberg [mailto:awittenberg@eenews.net]  
**Sent:** Wednesday, April 19, 2017 5:32 PM  
**To:** Bowman, Liz <Bowman.Liz@epa.gov>  
**Cc:** Press <Press@epa.gov>  
**Subject:** Comment from stakeholder meeting today--E&E News

Hi Liz,

Just wanted to circle back with you about getting some sort of comment or statement from EPA about the meeting held today with the intergovernmental organizations and the discussions that were held about repealing and replacing WOTUS. I’m writing for a 10 a.m. deadline tomorrow.

Thanks,

Ariel

Ariel Wittenberg  
E&E News reporter  
awittenberg@eenews.net  
**Ex. 6**

[@arielwittenberg](#)

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Energywire, Climatewire, Greenwire, E&E Daily, E&E News PM, E&ETV

**To:** Goodin, John[Goodin.John@epa.gov]  
**From:** Goodin, John  
**Sent:** Thur 4/6/2017 9:00:19 PM  
**Subject:** RE: ATTENTION: FW: WOTUS messaging  
UPDATED FEDCON.docx

w/Attachment

---

**From:** Goodin, John  
**Sent:** Thursday, April 06, 2017 4:56 PM  
**To:** Gregory Peck <Peck.Gregory@epa.gov>  
**Subject:** FW: ATTENTION: FW: WOTUS messaging

Greg-- Meant to include you as well. Apologies. Left you a voicemail  
Thanks  
John

---

**From:** Goodin, John  
**Sent:** Thursday, April 06, 2017 4:26 PM  
**To:** Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Freire, JP <Freire.JP@epa.gov>  
**Cc:** Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>; Threet, Derek <Threet.Derek@epa.gov>; Burden, Susan <Burden.Susan@epa.gov>; Christine Ruf <Ruf.Christine@epa.gov>; Campbell, Ann <Campbell.Ann@epa.gov>  
**Subject:** RE: ATTENTION: FW: WOTUS messaging

Thanks, Lincoln. Sarah OK'd a slight update to the Deliberative Process / Ex. 5, as follows (I think we can still retain your preface, "At this time,..."):

# Deliberative Process / Ex. 5

I'm copying our Administrator/Office of Water POC, Derek Threet, to help with the signature process, though given the direction to move the letter ASAP (and the OKs from Sarah, OGC and OCIR), I assume the signature itself is the priority.

The folks in OCIR are prepared to distribute the signed letter to the Big Ten, WGA, and Associations tomorrow.

Feel free to call me,  
John  
202-566-1373 (o)  
Personal Phone / Ex. 6 (c)

---

**From:** Ferguson, Lincoln  
**Sent:** Thursday, April 06, 2017 3:11 PM  
**To:** Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Shapiro, Mike <Shapiro.Mike@epa.gov>  
**Cc:** Eisenberg, Mindy <Eisenberg.Mindy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>  
**Subject:** RE: ATTENTION: FW: WOTUS messaging

Attached is the updated version of the letter. Please let me know of any further edits/changes.

Thanks,  
Lincoln

**To:** Hanson, Andrew[Hanson.Andrew@epa.gov]; Goodin, John[Goodin.John@epa.gov]; Bowles, Jack[Bowles.Jack@epa.gov]  
**Cc:** Talty, Mark[Talty.Mark@epa.gov]  
**From:** Christensen, Damaris  
**Sent:** Wed 4/5/2017 8:18:50 PM  
**Subject:** RE: FedConInvite2WOTUS2.docx

**Deliberative Process / Ex. 5**

**From:** Hanson, Andrew  
**Sent:** Wednesday, April 05, 2017 4:18 PM  
**To:** Christensen, Damaris <Christensen.Damaris@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>  
**Cc:** Talty, Mark <Talty.Mark@epa.gov>  
**Subject:** RE: FedConInvite2WOTUS2.docx

We'll make the **Deliberative Process / Ex. 5**

**From:** Christensen, Damaris  
**Sent:** Wednesday, April 05, 2017 3:23 PM  
**To:** Hanson, Andrew <Hanson.Andrew@epa.gov>; Goodin, John <Goodin.John@epa.gov>; Bowles, Jack <Bowles.Jack@epa.gov>  
**Cc:** Talty, Mark <Talty.Mark@epa.gov>  
**Subject:** RE: FedConInvite2WOTUS2.docx  
**Importance:** High

All,  
  
A couple of changes to the **Deliberative Process / Ex. 5** d like you to weigh in on ASAP.

**Deliberative Process / Ex. 5**

Here is are two rewrites of the **Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**Deliberative Process / Ex. 5**

**From:** Hanson, Andrew  
**Sent:** Wednesday, April 05, 2017 2:10 PM  
**To:** Goodin, John <Goodin.John@epa.gov>; Christensen, Damaris <Christensen.Damaris@epa.gov>  
**Subject:** Re: FedConInvite2WOTUS2.docx

Guys, I'll be on the run 'til about 4. If there are substantive changes, I'll likely need to run them back by Jack.  
On Apr 5, 2017, at 2:07 PM, Goodin, John <Goodin.John@epa.gov> wrote: